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The Mississippi General Sales Tax of 1932

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THE MISSISSIPPI GENERAL SALES

TAX OF 1932

A Thesis

Submitted to the Faculty of the College

Of Arts and Sciences

Municipal University of Omaha

In Partial Fulfillment of the Requirements

For the Degree of

Master of Arts

by

Melvin F. Nelson

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THE MISSISSIPPI GENERAL SALES TAX OF 1932

1 INTRODUCTION

It has often been said that the power of taxation is an instrument which must be delicately used. It can, if wisely employed, bring contentment and prosperity to a people. Sadly used, the body politic will suffer. Governments should normally impose only those taxes which have been proven to be the least oppressive in their effects.

But governments are occasionally faced with situations wherein experimental schemes must be used for the raising of additional funds. The State of Mississippi was confronted with such a situation in January, 1932. To meet the emergency, the state government elected to use a form of taxation, damned by tax theory for its oppressive effects upon the people, but which had, since the World War, come into favor as an emergency measure used to save governments from impending bankruptcy. This form of revenue was the General Sales Tax.

The present essay intends to assemble and analyze such data as is available concerning the history of the general sales tax and its operation in Mississippi, together with a survey of the conditions which forced the

state government into the adoption of this emergency measure. The purpose is also to draw such conclusions as seem warranted in an effort to determine if Mississippi made a wise choice when she decided to solve her financial problems by this form of taxation.

II MISSISSIPPI'S FINANCIAL, ECONOMIC, AND POLITICAL CONDITION PRIOR TO 1932

The situation in which Mississippi found herself in 1932, though precipitated perhaps by the world-wide depression, was as much the result of years of mismanagement of her own affairs as it was the result of conditions beyond her control. Between 1904 and 1930, with two negligible exceptions,¹ the state legislature each year consistently voted more appropriations than they provided revenue. The deficit was carried over from year to year and from administration to administration. Bond issues were voted, money was borrowed to tide the state over; and by 1932, appropriations totaled \$6,374,907.00 more than revenue received.² The bonded debt of the state as a unit was \$31,721,500.00, that of the counties \$88,398,563.00. This showed the state's total bonded debt to be 24.05% of its assessed valuation, equal to a direct levy of \$56.73 against every one of its 2,009,821 inhabitants or an average of \$3.90 against

¹ Special Report of Auditor of Public Accounts
State of Mississippi, Jan. 1, 1932, p. 26. Receipts exceeded appropriations by \$1,577,11 in 1908-1910, by \$35,371.00 in 1924-25.

² Ibid., p. 26

every acre of land.³ Nineteen dollars out of every one hundred dollars collected as revenue went to pay interest on bonds the state had issued.⁴ The lowering of assessed values resulting from the depression, despite high tax rates, caused the state's revenue to be seriously diminished. Between 1928 and 1932 the total assessment upon which the ad valorem revenues were based decreased over \$80,000,000.00.

The revenue of the state was derived largely from taxes on land and personal property. The ad valorem tax was made up of county wide taxes for state maintenance, county maintenance, general road, bridge and drainage taxes, and the common county school tax, plus special road, bridge, drainage, and school taxes, as well as the taxes on personal property. Seventy-five per cent of the cost of local and state government was borne by these taxes on real and personal property.⁵

³Memoranda to the State Legislature, State Tax Commission, 1932, p. 21 ff.

⁴T. G. McCallus, Chairman Ways & Means Committee Mississippi House of Representatives, Jackson Daily News, Feb. 6, 1932

⁵Conner, M. S., Inaugural Address, Jan. 19, 1932, House Journal, . . . 100. 1928 ad valorem assessments - \$775,716,077.00, 1932 (est.) \$692,683,904.00

⁶Conner, M. S., Message to Legislature, March 8, 1932, House Journal, p. 375

The other twenty-five per cent of the state's revenue came from assessment, inheritance, income, tobacco, salt, privilege, franchise, sea foods, kerosene and fuel oil taxes.

The use of property as a basis for taxation had broken down. The lands of Mississippi, exclusive of timbered land and city and town property, were assessed at an amount ten times greater than the total assessed value of stocks and merchandise. Often the taxes imposed upon a property owner were greater than the man's net worth. Farms and homes were mortgaged for double and triple their sale value. More than twenty million of the state's thirty million acres of arable land were lying idle; and thousands of additional acres were being surrendered to the state because their owners could not pay their taxes.⁷

With the State Treasury empty, holders of Mississippi bonds were becoming anxious about the situation. In 1931 banking interests in the north served notice that they would not bid on \$1,000,000.00 of State Insane Hospital Removal Bonds if they were advertised. Indications were also given that they would not be in the mar-

⁷Ibid.

ket for may bonds of Mississippi cities or counties.⁹

Futhermore, the political situation at the time had reached a crisis. In April, 1931, toward the end of the regime of Governor Bilbo, under whom the state in four years spent approximately \$13,000,000.00 more than its income,¹⁰ the legislature and the governor were deadlocked. The governor refused to call the legislature in special session to allay the situation unless they agreed to sign pledges to pass several measures he had been advocating. Members of the legislature in turn threatened an investigation into the activities of the governor if they were called into extraordinary session. In a condition described as the worst since the days of the Carpet-bag regime, bankers of the state met to consider the pooling of their resources to satisfy bondholders and save the state's credit.¹⁰ State employees had not been paid in months, state institutions were on half rations, and state schools were threatened with closing. A "rump" legislature meeting without executive sanction, blamed the governor for the situation.¹¹ The governor, in turn, blamed the legislature for refusing his "no investigation" plea as

⁹Jackson Daily News, April 19, 1931

⁹Special Report of Auditor, Op. Cit., p. 4

¹⁰Jackson Daily News, April 13, April 20, 1931

¹¹Jackson Daily News, April 27, 1931

a prerequisite to a special session, claiming that the legislature, in its regular session, recently adjourned, had spent the major portion of its time on non-essentials, rather than on the pressing problems of state finance.¹² So it was in this lapse that Mississippi started the new administration of Governor Conner in January, 1932.

¹²Jackson Daily News, April 17, 1931

111 SOLUTION - THE GENERAL SALES TAX

The balancing of the budget was the immediate problem which confronted the new administration. It was necessary to balance the budget if the state was to find a market for its securities in order to enable it to pay the \$3,843,115.52 due on outstanding warrants.¹³ The first move was to make a reduction in governmental expenditures of thirty-three and one third per cent. A revision of old taxes still left an unbalanced budget. The general decline of state revenue, because of the current depression, is exemplified by the following table which shows the extent to which receipts from income taxes had fallen off since 1929.¹⁴

1929	\$1,720,494.55
1930	1,546,025.23
1931	795,238.10
1932	400,067.13

With similar decreases occurring in the other sources of revenue, a totaling of all estimated receipts still left a deficit under estimated appropriations of over \$4,000,000.00 for the biennium, 1932-1933.¹⁵ To provide for this sum the ad valorem rate, which in 1931

¹³Special Report of State Auditor, Op. Cit., p. 13

¹⁴Ibid. p. 12, and Mississippi's Business, Report of State Auditor, Oct. 1, 1932

¹⁵Memoranda to the Legislature, Op. Cit., p. 9

was eight mills, would have to be raised. Mississippi's financial and economic condition was such that any increase in the ad valorem rate would prove destructive of its base.¹⁶ It was evident that another source of revenue must be found.

As a solution to the problem, it was suggested that the state secure new revenue by levying a tax on all commercial transactions, or as commonly understood, a tax on the sale, transfer, or exchange of commodities, property, or services at a uniform rate.

Contrary to popular belief, the idea of imposing a tax on the sales of commodities is not new. History records the use of sales taxes in ancient Egypt, in Greece five hundred years before Christ, and in Rome under the Emperor Augustus.¹⁷ The general consumption taxes of France and Spain have been termed the medieval offspring of these ancient levies.¹⁸ In most cases these taxes were levied for only a short time as a war tax or for some similar dire and immediate necessity. In Spain, however, the Alcavala, as the tax was called, was consid-

¹⁶See above, p. 5

¹⁷Buchler, A. G., General Sales Taxation (New York, 1932) pp. 1-2

¹⁸Buchler, A. G., "Recent Developments of the General Sales Tax", Journal of Political Economy, Vol. XXXVI (Feb. 1928), p. 83

ered one of the most lucrative of the permanent taxes, and as such was introduced into the colonies and lasted down to the end of Spain's colonial regime.¹⁹ Adam Smith, in his Wealth of Nations, has stated that this tax on consumption was one of the forces that contributed to the decay of the once vast Empire of Spain.²⁰

Up until the World War economists and students of finance maintained an unfavorable attitude toward the sales tax. The Spanish Alcabala was held up as an example of the blighting effect upon trade that was sure to follow a tax levied upon commercial transactions.²¹ Professor Bastable, writing in 1903, summarized the prevalent opinion of the authorities twenty-five years ago: "Taxes on all commodities, on transfers of goods, and on the different forms of production would be extremely prejudicial to the development of industry, irksome and inconvenient to payers, and very costly in collection."²² In fact, prior to 1914, it was only in Mexico and the Philippines where the Spanish influence remain-

¹⁹ James and Martin, The Republics of Latin America, (New York, 1932), p. 4

²⁰ Smith, Adam, Wealth of Nations, Book 5, Chap. 11

²¹ Ibid.

²² Bastable, C. F., Public Finance (New York, 1903) p. 345

ed that general sales taxes were levied.²³

The huge expenditures occasioned by the World War forced the European nations to seek new sources of revenue to forestall impending bankruptcy. To meet the emergency the nations began experimenting with the age-old, ill-reputed sales tax. So excellent a producer of revenue did it prove to be that thirty countries, including every industrial nation on the European continent, incorporated a sales tax into their revenue structures. There it ranks second only to the income tax as a source of revenue.²⁴ In some countries one-fourth or even a higher percentage of the total revenue is derived from the sales tax.²⁵

The turnover tax of France might be cited as an illustration of the typical present day European sales tax. It is a multiple or pyramiding tax wherein one article may not only be taxed several times, but the tax itself may be levied upon by later taxes.²⁶ In France, as in many of the European nations, the tax is imposed

²³Seuhler, Journ. Pol. Ec., Op. Cit., p. 83

²⁴Ibid. p. 89. In Austria the general sales tax yields more than any other tax.

²⁵Seuhler, Gen. Sales Tax, Op. Cit., p. 171

²⁶Treadway, Allen T., "The Why of the Sales Tax", North American Review, (March 1933), Vol CXXXV, p. 200

at the general rate of two per cent.²⁷ Luxuries carry a higher rate in France, and a special turnover tax, suggestive of American taxes on chain stores and other large retailers, is also collected from concerns with an annual turnover in excess of one million francs.²⁸

Canada, since 1924, has levied a sales tax of a different type, known as a manufacturers' sales tax. Levied at the rate of six per cent, it applies only to finished manufacturers' goods and to imports which are for the ultimate consumer. The manufacturer, who pays a two dollar license, is authorized to purchase materials for remanufacture, tax free, and only one tax is applied and collected.²⁹ The simplified application of the law to only two zones (the manufacturers' sales and imports) has made it possible for Canada to derive as high as twenty-four per cent of her total revenue from this tax.³⁰

²⁷Beuhler, Gen. Sales Tax, Op. Cit., p. 83

²⁸Ibid., p. 81 ff. The rate is 12% on articles classed as luxuries because of their nature, 6% if luxuries because of their price.

²⁹Davenport, Walter, "The Tax Nobody Notices", Colliers, Jan. 21, 1933, p. 10ff. See also for Canada's earlier experience with the sales tax "Canada Has a Sales Tax That Yields Fifty Million Dollars", Current Opinion, Vol. LXVI, (Oct. 1921), p. 520

³⁰Beuhler, General Sales Tax, Op. Cit., p. 21 Receipts in 1931 were \$20,000,000.00 or about 14% of total revenue.

Mississippi legislators found, however, little precedent for a general sales tax in the annals of federal taxation in the United States. The federal government has never levied a general sales tax in the strict sense of the word; though at various times they have employed extensive production and consumption taxes to meet particular emergencies.

In need of additional revenue with which to prosecute the Civil War, Congress imposed extensive taxes on manufactured goods at varying rates. Not only were all the constituent parts which enter into an article taxed, but the finished product was subject to an additional duty.³¹ In 1865 a commission appointed by Congress to investigate the internal revenue system concerning excise taxes said: "Such a system as this violates all the fundamental principles of taxation, in as much as the taxes are neither definite in amount, equal in application, nor convenient in collection... A similar duplication of taxation to this just described must, in our opinion, attend the adoption of a general sales tax....."³²

³¹Dewey, D. B., Financial History of the United States, (New York 1918), Chap. 13

³²Report of United States Revenue Commission, 1866, quoted in Buchler, Gen. Sales Tax, Op. Cit., p. 9

General sales tax agitation remained dormant until after the World War when it was evident that tax reforms were necessary to help the chaotic condition of post-war finance. By 1920 the complicated taxation system of the time, with its high income tax rates and the numerous "nuisance taxes" was about to collapse. A manufacturers' and producers' tax was introduced in Congress in 1921³³ and its adoption was urged by chambers of commerce, tax leagues, and manufacturers' associations throughout the country. Various other like schemes were presented; but in neither the Senate nor the House did a bill for a general sales tax receive the majority vote necessary for its passage. In 1931 the federal government was faced with a financial predicament involving heavy expenditures of over \$4,000,000,000.00 annually, with declining revenues, mounting indebtedness, and a riding deficit. After numerous hearings, the Committee on Ways and Means proposed to the House of Representatives a non-partisan program for balancing the federal budget. One section of this bill provided for a manufacturers' excise tax, similar to that now used in Canada, of 2½% on the sale of every article sold by li-

³³Congressional Record, 67th Congress, 1st Session, Vol. 61, 1921, pp. 6211-6221

censed manufacturer or producer thereof in the United States, plus an import tax at the same rate. Exceptions, originally limited to essential food products, grew rapidly as efforts were made by supporters and opponents to save or emasculate the bill. Finally, the proposed manufacturers' tax was amended out of the revenue program by a decisive vote.³⁴

Laboring under much the same problems of post-war finance and business depression as was the national government, the states of the Union were, however, more prone to adopt experimental measures to solve tax problems than was the national Congress.

Pennsylvania has levied a sales tax since 1921. It attaches a tax of one per cent on all retail sales of personal property, and likewise to sales by producers and manufacturers when made direct to the consumer.³⁵

Since 1906 Delaware has levied a tax against manufacturers, wholesalers and retailers, which at the present time is fixed at the rate of .02 per cent. All merchants must pay a five dollar annual license, no tax

³⁴Congressional Record, 67th Congress, 1st Session, Vol. 61, 1921, pp. 693-7001

³⁵Treadway, Allen T., Op. Cit., p. 201

being collected if gross receipts do not exceed \$1000.00.³⁶

Since Connecticut has a net income tax on incorporated businesses only, her sales tax is directed solely against unincorporated businesses, with rates of .1 per cent for manufacturers and retailers, and .025 per cent for wholesalers. A stipulation also provides that the minimum tax collected shall be at least five dollars per annum.³⁷

Sales tax advocates of Mississippi pointed to the gross sales tax of West Virginia as the model which Mississippi should follow. The tax of West Virginia classifies the types of business into producers, manufacturers, retailers, wholesalers, utilities, banks, and amusements, with different rates for each class. Extractors of subsoil products bear rates as high as 1.35%, wholesalers .05%, retailers .20%, and manufacturers .21%.³⁸ West Virginia, apparently, uses the sales tax to prevent a too rapid depletion of her subsoil resources. In Georgia the exemption figure of \$30,000.00 indicates that there the tax is used as a discriminatory tax against chain

³⁶Buenler, Gen. Sales Tax.. Op. Cit., p. 56
1930 sales tax receipts - \$127,510.00. Total state revenue - \$3,452,745.00

³⁷Ibid., 1928 receipts \$562,374.00. Cost of administration 4%

³⁸Conley, Gov. W. G., "How West Virginia Found New Revenue", Review of Reviews, Vol LXXII, (Oct. 1930) p. 120

stores and other large merchandising establishments.³⁹

This knowledge of the present use of the sales tax in the several states, together with its past use by hard-pressed governments, served to further the suggestion that the merits of the sales tax be investigated to determine if it could be of aid in Mississippi's emergency.

³⁹Buehler, Gen. Sales Tax., Op. Cit., p. 57ff.

IV MISSISSIPPI'S PREVIOUS EXPERIENCE WITH SALES TAXES

Although the experiences of other states served to convince sales tax proponents that a general sales tax, having aided other states, might also help Mississippi, yet actually, Mississippi need not have gone beyond her own borders to study sales tax operation.

Recent research has disclosed that, besides the gross sales tax levied in 1930 and 1931,

"...Mississippi made use of the sales tax for a period of more than fifty years, having inaugurated its use in 1815 and retained it until the adoption of the general property tax in 1970. Under the territorial act of 1815, levying a revenue for the support of the Territory, it was specified that there should be levied a tax of twenty-five cents per hundred dollars on the account of sales of merchandise within the year immediately preceding the first day of January in each and every year. Subsequent revenue measures retained the tax but modified the rate from time to time."⁴⁰

In the period following the Civil War, the complex war time tax system was reorganized. The general property tax was introduced as a tax which would bring in sufficient revenue to enable many of the then existing tax forms to be discontinued. Among the taxes whose demise resulted from this simplification was the sales

⁴⁰ Rhodes, M. C., History of Taxation in Mississippi, (Nashville, 1933), p. 117

tax.⁴¹

Not until 1923 was a sales tax again proposed, when Walter Wood, later Secretary of State, suggested a sales and amusement tax to meet the inevitable "pay day" that must follow the years of debt accumulation.⁴² In 1923 a bill was introduced in the Mississippi House of Representatives providing for a tax at the general rate of one per cent on all gross income or receipts.⁴³ The Joint Revenue Committee of the legislature stated that "...its enactment...would have a tendency to disturb and upset business conditions in the state...and would be more harmful than helpful."⁴⁴ In 1930, however, a sales tax bill was favorably reported and finally passed.⁴⁵ But the 1930 gross sales tax, because of the low rates, the numerous exceptions, and the provision allowing the payment of any privilege tax to be used as an offset against the sales tax, was relegated to the position of an experiment rather than a revenue

⁴¹Laws of 1870. Ibid., p. 118

⁴²Memphis Commercial Appeal, Dec. 26, 1923

⁴³Jackson Daily News, March 14, 1923

⁴⁴Report of Joint Revenue Committee of Mississippi Legislature. Quoted in Mem. Com. Appeal, April 13, 1923

⁴⁵General Laws of Mississippi, 1930, Chap. 90

measure. 46

⁴⁶ Research Commission of the State of Mississippi, Report on a Survey of the Organization and Administration of State and County Government in Mississippi, by Institute of Government Research of the Brookings Institution, Washington, D. C., (Jackson, 1935), p. 203. Rates for the Sales Tax of 1935 are as follows:

Extractive Industries	1%
Manufacturing	1/10-1/2 of 1%
Merchandising	1/3-1/2 of 1%
Utilities	1/2 of 1%
Contracting	1/4 of 1%
Professions	1/4 of 1%
Amusements	1%
All Others	1/4 of 1%

V THE PASSAGE OF THE SALES TAX OF 1932

The Governor-elect, Martin Bennett Conner, with the precedent of Mississippi's previous sales tax experience and the renewal, since the War, of the sales tax' popularity, let it be known that he favored a sales tax as the first step in the new revenue program.⁴⁷ In his inaugural address on March 15, 1932, he referred to the general sales tax as a method of relieving the heavy taxes on property.⁴⁸ The legislative branch of the state government likewise agreed that some form of emergency taxation was necessary; but they did not support the 3% gross sales tax rate advocated by the Governor.⁴⁹ The Senate Finance Committee recommended a 2% gross income tax, while the House Committee reported in favor of a 1% gross sales and income tax;⁵⁰ the House Committee's recommendation being introduced as House Bill No. 323, entitled "The Emergency Revenue Act of 1932".

A well organized bloc in the House succeeded

⁴⁷Jackson Daily News, Jan. 9, 1932, Jan. 14, 1932

⁴⁸Conner, M. S., Inaug. Address, 2d. Ed., p. 107

⁴⁹Jackson Daily News, Feb. 2, 1932

⁵⁰Jackson Daily News, Feb. 6, 1932

in amending the general rate from 1% to 3%, not, however, without a rider attached providing for a rebate of 33 1/3% of the revenue to the counties.⁵¹ This 3% bill, after two failures and much discussion, finally passed the House and was sent to the Senate where it was amended back to the original 1% rate.⁵² There then ensued a fifteen week deadlock between the House and the Senate which was broken in April, 1932, when a second conference committee was successful. The compromise effected altered the bill to a 2% rate, and eliminated the rider that called for a portion of the revenue to be turned back to the counties. On April 23, 1932 it was signed by Governor Connor, who, in the message accompanying the signature, expressed his disappointment that the rate was not higher.⁵³

While the legislature was considering the emergency measure, popular feeling in the state was in a turbulent condition. An anti-sales-tax organization was formed among the merchants. Protest meetings were held throughout the state in an effort to arouse the state against the tax that would "destroy business". Business men

⁵¹ House Journal, 1932, pp. 353-354

⁵² Ibid., p. 400, and Senate Journal, 1932, p. 491

⁵³ House Journal, 1932, p. 736

claimed that their sales volume would be drastically affected, that mail order companies in other states would flood Mississippi with tax-free goods. Merchants living near the state borders would be ruined by tax-free competition from nearby states. The public, constantly reminded of the tax at every purchase, would refuse to buy unless the merchant absorbed the tax himself. Causing every business man to be a tax collector would entail additional clerical expense which could not be borne by merchants already in the depths of depression. It was also asserted that very little revenue would actually accrue to the state because the complicated system necessary to administer such a tax would make the cost of collection very high. Full page advertisements were run in the daily papers in an effort to arouse the people against the measure. On March 16, 1932, stores in Jackson, the state capital, closed, and hundreds, carrying banners, marched upon the capital building. A near-riot occurred in which guns were displayed but not fired. Similar agitation continued all during the consideration of the measure; but, when the bill passed, in spite of lobbyist, filibusterers and propagandists, the demonstrations largely subsided with the threat to fight the new law through the courts.⁵⁴

⁵⁴For accounts of popular reaction see: Jackson Daily News, March through April, 1932, and Walter Davenport, "Pay As You Go", Colliers, Nov. 19, 1932

VI PROVISIONS OF THE EMERGENCY REVENUE ACT OF 1932

The Emergency Revenue Act of 1932 is entitled "An act to provide for the raising of additional public revenue by imposing a tax upon the privilege of engaging in certain businesses in Mississippi." ⁵⁵ This definitely classes the measure as a privilege tax. The Act does not state that businesses shall be taxed a certain per cent of their receipts, but, instead, that they shall pay a privilege tax because of the business engaged in, equal to a certain per cent of these receipts. Thus, a business or profession, such as the clergy, which is not subject to a privilege license, pays no tax. The receipts upon which the tax is computed are the gross receipts or gross income from personal services, trades, sales, or investment. ⁵⁶ Although all taxable persons must secure an annual one dollar license, each taxpayer is permitted a flat exemption of \$1200.00 from the receipts on which he is taxed. ⁵⁷ This exemption figure relieves from the payment of the tax many merchants whose returns would be small and who generally experience some difficulty

⁵⁵ See title of Emergency Revenue Act of 1932, Laws of Mississippi, 1932, Chap. 98, p. 176, and Appendix, p. 69

⁵⁶ Em. Rev. Act, Sec. 1, Appendix, p. 69

⁵⁷ Ibid., Sec. 4(cc), Appendix, p. 78

in passing the tax on. The collection of these small amounts would increase the administrative costs of the tax. The exemption figure of \$1200.00 is low enough, however, to include the average merchant and prevents the tax from resting mainly on the large mercantile establishments as does the sales tax of Georgia.⁵⁸ This indicates that, in the main, Mississippi's law is a non-discriminatory revenue measure.

The rates for the computation of the tax range from 2½% to as low as 1/3 of 1%. The only case wherein the rate exceeds the general 2% levy is that of businesses engaged in the extraction of natural gas, which are subject to a tax of 2½%.⁵⁹ As natural gas fields have only recently been opened up in Mississippi, the state is evidently anxious to conserve this sub-soil product as well as secure tax revenue from a new enterprise.

All other extractive businesses, such as the oil, limestone, sand, gravel, and timber industries, are taxed 2%,⁶⁰ as are all public utilities, with the exception of electricity sold for industrial purposes.⁶¹

⁵⁸ See above, p. 16

⁵⁹ Em. Rev. Act, Sec. 2 A, Appendix, p. 71

⁶⁰ Ibid.

⁶¹ Ibid., Sec. 2 D. Electricity sold for commercial purposes is taxed 1%. Municipally owned electric or water plants are exempt.

Every person subject to a privilege tax, and engaged in the selling of any tangible property at retail, is taxed 2%, with the exception of automobile and tractor dealers who pay 1%.⁶² This taxes in all retail stores in the state; and the revenue collected under this section makes up more than 30% of the total revenue from the sales tax.⁶³ Professional men and all those engaging in any form of personal service for which a privilege tax is paid, are also taxed at the general rate.⁶⁴

Manufacturers, with the exception of those manufacturing commodities, like bricks and tile, which deplete the natural resources, pay only a $\frac{1}{2}$ of 1% tax.⁶⁵ In the case of manufacturers, and utility companies as well, the actual freight may be deducted from the taxable receipts when the goods are sold at a delivered price.⁶⁶

The business of wholesaling or jobbing carries the relatively low rate of $\frac{1}{3}$ of 1%.⁶⁷ The legislature evidently, recognized the effect that the pyramiding of heavy

⁶²Em. Rev. Act, Sec. 20, Appendix, p. 72

⁶³State Tax Commission, Mississippi Sales Tax Statistics 1932

⁶⁴Em. Rev. Act, Sec. 27, Appendix, p. 74

⁶⁵Ibid., Sec. 23, Appendix, p. 71

⁶⁶Ibid., Sec. 2A, 2B, Appendix, p. 71

⁶⁷Ibid., Sec. 20, Appendix, p. 72

taxes through manufacturer, jobber, and retailer would have on the ultimate price of an article, and upon the sales volume. This fault, found in the turnover type of sales tax, was minimized by placing the heaviest tax at the point where the commodity enters the hands of the ultimate consumer. As turnover tax also tend to cause business integration, in an effort to avoid the tax, the Act provides that, if a manufacturer is also engaged in the taxable extractive industries, using such products extracted in his business, he is to be taxed for the extraction as well as for the manufacture.⁶⁸ This helps to offset the tendency toward vertical combination of business for the purpose of evasion of the tax.

The Act provides various exemptions and deductions that are to be made in computing the amount of the tax. Beside exempting interstate sales, all sales made to the United States government, or to the State of Mississippi, its departments or institutions, also are not to be computed with the taxable gross proceeds.⁶⁹

The receipts of all organizations that are operated exclusively for the benefit of their members, and who do not have a capital stock represented by shares, are exempt.⁷⁰

⁶⁸ Ms. Rev. Act, Sec. 23, Appendix, p. 75

⁶⁹ Ibid., Sec. 2K, Appendix, p. 76

⁷⁰ Ibid., Sec. 43, Appendix, p. 77

This includes such organizations as the Building and Loan Associations and the Mutual Savings Banks. Also exempt are non-profit organizations, labor and agricultural societies such as co-operative creameries and marketing associations, cemetery or fraternal benefit societies, organizations for religious, charitable, scientific and educational purposes, and social welfare groups such as Chambers of Commerce and Boards of Trade.⁷¹

Resident insurance companies, being taxed by states on upon premiums, are exempt from any taxation under the Act,⁷² as are all amounts received under insurance policies, except where they exceed the total value of the premiums paid.⁷³

Products of the farm are entirely exempt from taxation. This also includes the crates and boxes used in marketing these products.⁷⁴ Among the causes of this exemption is the fact that agricultural accounts are generally poorly kept; and much difficulty would be encountered in figuring the taxable receipts. Another reason might be due to the political strength of the farming element in a

⁷¹Ira. Rev. Act, Sec. 4C, Appendix, p. 77

⁷²Ibid., Sec. 4A, Appendix, p. 77

⁷³Ibid., Sec. 4E, Appendix, p. 78

⁷⁴Ibid., Sec. 4C, 4D, Appendix, pp. 77-78

rural state such as Mississippi. However, where there is a flat exemption of sales under a certain sum, like the \$1250.00 exemption in Mississippi, the farmer is generally exempt without overt discrimination.

All receipts of hospitals, infirmaries and sanitariums are entirely exempt from taxation under the Act,⁷⁵ as also are receipts from the sale of school books, when the sale price is fixed by contract.⁷⁶

The Act is armed with penalties tending to insure proper compliance and eliminate evasion of the tax. The Tax Commissioner is empowered to audit the accounts of any taxable business and to correct all errors in returns, assessing a fine of 10% of the unreported deficiency when caused by negligence or unintentional disregard, and for a deficiency due to fraud, the fine may be as high as 100%.⁷⁷ Any attempt at fraud or evasion is classed as a misdemeanor and is punishable by a fine of \$500.00, six months imprisonment, or both.⁷⁸ The Tax Commissioner may, however, decline to prosecute for violation of the Act on first offense, if, in his judgment, the violation is not willful or flagrant.⁷⁹

⁷⁵Ibid., Sec. 43, Appendix, p. 78

⁷⁶Ibid., Sec. 45, Appendix, p. 78

⁷⁷Ibid., Sec. 7, Sec. 8, Appendix, pp. 80-81

⁷⁸Ibid., Sec. 15, Appendix, p. 86

⁷⁹Ibid., Sec. 12, Appendix, p. 86

The tax is declared to be a lien on the property of the taxpayer; and if a person sells or quits his business, he is required to file a return within thirty days. If his successor fails to withhold the tax due from the purchase price, the new owner is personally liable for the tax.³⁰ If an assessment is not paid within sixty days, the property of a delinquent taxpayer may be sold to satisfy the tax and fines due, as well as an additional fine of 10% of the tax due. As the tax due and unpaid constitutes a debt against the state, a delinquent person can be enjoined from conducting business in the state.³¹

The law, however, permits redress for aggrieved persons who are not pleased with their assessment. If any person, having paid the tax, desires a hearing on his assessment, he may, within thirty days, apply to the Commissioner for correction, setting forth the reasons why the tax should be reduced. The act also states that the Tax Commissioner may be sued by any aggrieved person, in the Civil Courts, with the privilege of appeal to the Supreme Court.³²

³⁰ibid., Sec. 9, appendix, p. 81

³¹ibid., Sec. 11, appendix, p. 83

³²ibid., Sec. 12, Appendix, p. 82

There has been very little litigation either to test the constitutionality of the Act or to lend interpretation to it. The threats of the force of the tax to fight it through the courts did not materialize. The rulings that have been handed down, for the purpose of clarifying the meaning of certain sections of the Act, have been given by judges in the Circuit and Chancery Courts of Hinds County.

A ruling of Chancellor V. T. Stricker, in the Hinds County Chancery Court, was given on the suit of the Mississippi Power and Light Company to determine whether a company operating under a municipal franchise, specifying the maximum rate charged, can add the sales tax on to its customers' bills. The Judge ruled that as the franchise granted to the power company specified the contract price of its service, any additional sum charged would be a breach of contract. In an informal interpolation on the decision, the Judge said that in the case of a merchant there is a difference because he may charge whatever price he wishes for his merchandise and if his contractual price includes the sales tax, he is within his legal rights.³³

³³Chancery Court of Hinds County, Miss., Mississippi Power and Light Company vs. A. W. Stone, Chairman State Tax Commission, Jackson Daily News, June 19, 1932. Case not reported.

Another ruling, concerning the exemption of sales to counties and municipalities, was made by Judge L. H. Potter of the Winds County Circuit Court. Judge Potter held that sales to these political subdivisions were not included in the exemption under Section 2-1, wherein sales to the United States Government, the state, its departments, and institutions are not taxed.³⁴

A recent ruling of the Chairman of the State Tax Commission deals with the tax liability of a person engaged in the business of selling materials and supplies to persons engaged in construction of projects paid for out of funds supplied by the Federal Government. The Commissioner ruled that sales to such instrumentalities as the Civil Works Administration, Public Works Administration, Reconstruction Finance Corporation, Federal Land Bank, Home Owners Loan Corporation, Civilian Conservation Corps and other like organizations are a part of the taxable gross income as contemplated by the Emergency Revenue Act of 1932.³⁵

³⁴Circuit Court of Winds County, Miss., Standard Oil Company of Louisiana vs. L. H. Stone, Chairman State Tax Com., Memphis Commercial Appeal, Oct. 12, 1932. Case not reported.

³⁵Stone, L. H., State Tax Commissioner, Markville News, June 28, 1934.

Since none of these rulings have been appealed to the court of last resort, the State Supreme Court has not passed finally on any of these points.³⁶

³⁶State of Mississippi, Department of Justice, Office of Attorney General, in a letter to the writer, June 21, 1934, and Secretary of State Tax Commission, in a letter to the writer, July 23, 1934.

VII THE GENERAL SALES TAX OF MISSISSIPPI IN OPERATION

The new General Sales Tax Law had an excellent beginning with the selection, as chairman of the State Tax Commission, of A. H. Stone,³⁷ who immediately set about reorganizing the tax collection system of the State. Pressing the need for economy and efficiency in tax collection, the new chairman inaugurated an examination system which would insure the employment of trained tax administrators. The work of organization was so well done that when a representative of a New York concern, rather uneasy about its million dollars' worth of Mississippi securities, was sent to Mississippi, he declared that what he saw was enough to satisfy him that his Mississippi securities were safe and that he was willing to invest more.³⁸

Claims for the computation and the reporting of the gross income and the tax due are furnished by the Tax Commission. With instructions as to the computing

³⁷From Who's Who's in America, 1931-32. L.L.B.? U. of Miss., 1971, L.L.B., 1916; L.L.B., South Western U., 1923; Vice-pres. Staple Cotton Coop. Assn., Dir. Fed. Land Bank, Dir. Fed. Intermediate Credit Bank, N.C.; Member Miss. Leg., 1916-20, Member Am. Pol. Sci. Assn., Am. Sociol. Assn., Am. Hist. Assn., Am. Ec. Assn., African Soc. of London, Pres. Miss. Hist. Soc. 1912-13, ed. Staple Cotton Review.

³⁸Stone, A. H., Chairman State Tax Commission, Letter to Employees, Dec. 1933

and filing of the reports printed at the bottom of each sheet, the blanks given each taxpayer provide space for the return of:

1. Income from Sales or Businesses
 1. Credit Sales
 2. Cash Sales
 3. Collections on Credit Sales
2. Total Sales or Receipts
3. Other Income
4. Total Income
5. Deductions for Freight on Sales of Wined or Manufactured Goods; Taxes on Tobacco, Gasoline or Oil
6. Total Deductions
7. Balance (Item 4 minus Item 6)
8. Exemption (\$1200.00 per year-\$100 per month)
9. Taxable Gross Income
10. Rate of Taxation
11. Tax for Period

From the records of his gross income, which the Act states must be retained for two years, the taxpayer computes his own tax. As these records are open to examination by the Tax Commissioner, assessment may be made by the Commissioner against those failing to report their sales. Such assessment, after notification, is final.⁸⁹

The Act provides that the returns of all sales are to be made for one month and are due by the fifteenth of the following month. However, where the total tax for one month does not exceed \$100.00, quarterly returns may be made. Annual reports will suffice if the total tax does not exceed \$100.00 for the quarter.

⁸⁹ Emergency Revenue Act, Sec. 8, appendix, p. 81

Though sales on credit are to be entered on the tax return blanks, no tax is charged upon them until collection. Extensions over the allotted time for the filing of returns may be granted by the Tax Commissioner.⁹⁰

As the tax is levied on the gross receipts of a business, the State is concerned only with the collection of its tax according to the gross receipts. The merchant may collect the tax or not. Because very few sales are in such amounts that the regular rate would come out an even number such as one or more cents, the business men in the various towns, by agreement, have established schedules for the applying of the tax. Several such schedules are:⁹¹

1.

Sales of			Tax
1¢	through	19¢	No tax
20¢	"	59¢	1¢
60¢	"	\$1.19	2¢
\$1.20	"	\$1.59	3¢
Upward on same scale			

2.

Sales of			Tax
1¢	through	14¢	No tax
15¢	"	64¢	1¢
65¢	"	\$1.14	2¢
Upward on same scale			

⁹⁰Ann. Rev. Act, Sec. 5-6, Appendix, pp. 78-79

⁹¹Publication of University of Mississippi, Series XXX, No. 3, Jan. 1933, p. 15

3.

Sales of			Tax
1¢	through	10¢	No tax
11¢	"	50¢	1¢
51¢	"	\$1.10	2¢
Upward on same scale			

4.

Sales of			Tax
1¢	through	24¢	No tax
25¢	"	74¢	1¢
75¢	"	\$1.24	2¢
Upward on same scale			

The ratio of tax free sales to the total gross sales will determine whether the tax collected according to the above schedules will be equal to that due the State according to the fixed tax rates. It is possible, therefore, for a merchant because of the type of merchandise sold, or because of the amount of his average sale, to make a tax profit or suffer a tax loss. To offset the latter condition there is a tendency for merchants of the same type, such as furniture or hardware dealers, to adopt schedules suited to their particular businesses.

The intent of the law is that the tax burden should be passed on by the immediate taxpayer, from whom the state collects the tax, to the consumer who pays the tax in the increased prices of his purchases. But for doubt of the constitutionality of such a provision, the governor stated that the law would have been worded so as to force the merchants to pass the tax on

to the consumer.⁹²

When the tax was first passed, it was thought by the retail dealers throughout the state that the resentment of their customers would force them to absorb the tax in their margin of profit. The results of a survey⁹³ taken eight months after the inauguration of the tax show that, in the main, the tax is being passed on to the consumers by the retail merchants. In some cases merchants claim that they absorb part and shift part of the tax, following the policy of absorbing the tax on cash sales and shifting it on credit sales. After eight months of operation, only 22.4% of seven hundred and forty retail merchants interviewed in the University of Mississippi survey still absorbed the tax, and it is likely that as time goes on more and more merchants will cease to shoulder this added burden and shift the tax where it was intended to rest. The following table gives the ratio between the shifting and absorbing, by the retailer, of the tax.⁹⁴

SHIFT AND ABSORB RATIO

DEALERS	SHIFT TAX	%	ABSORB TAX	%	SHIFT & ABSORB	%
740	407	55	167	22.6	166	22.4

⁹²Conner, M. S., Dallas, Texas, Jan. 13, 1933,
Jackson Daily News, Jan. 14, 1933

⁹³Bulletin, U. of Miss., Op. Cit.

⁹⁴Ibid., p. 14

Generally speaking, consumption taxes are shifted by raising the price of the commodity. In Mississippi, however, most merchants, in shifting the tax, prefer to invoice the tax separately, marking it as such, on each sale. Commodities are advertised at their sale price, "plus tax", instead of having the tax included in the price. Customers are more disposed to buy an article if they know exactly what the article itself is costing them, and that the extra amount paid is not for the article but is a tax over which the merchant has no control. The following table shows, of those merchants cited above who shift all or part of the tax, that the great majority shift by separately invoicing the tax on each sale.⁹⁵

DEALER METHOD OF SHIFTING

	By Raising Price	By Invoicing Separately	Using Both Methods	No Answer
407 SHIFT	65	325	11	6
166 SHIFT & ABOVE	16	136	6	8
TOTAL	81	461	17	14

In the case of the wholesalers and the manufacturers, who pay rates of $1/8$ of 1% and $1/4$ of 1% respectively, the incidence is more difficult to trace. As shown by the following tables, the wholesalers and the

⁹⁵Ibid., p. 15

manufacturers largely absorb the tax as an added business cost, doing so mainly because their margin of profit permits absorption, because of a desire to keep their commodity within a certain price class, or for reasons of competition.⁹⁶

WHOLESALE RATIO ABSORB AND SHIFT

DEALERS	ABSORB	%	SHIFT	%	ABSORB & SHIFT	%
75	67	89.3	5	6.6	3	4.1

MANUFACTURER RATIO ABSORB & SHIFT

DEALERS	ABSORB	%	SHIFT	%	ABSORB & SHIFT	%
75	65	86.6	6	8	4	5.4

The general tendency is to pass all business costs on to the ultimate consumer in the price paid for the commodity. The shifting of the tax as an added cost, though retarded by the various resistance factors,⁹⁷ is accomplished by forecasting the taxable sales volume and including the future tax to be paid in the calculations of overhead costs. The theory held by economists, that sales taxes are shifted in the long run to the ultimate

⁹⁶ Ibid., p. 19.

⁹⁷ Elasticity of demand, immobility of investments, unfavorable business condition, etc., See Lutz, H. L., Public Finance (New York, 1925), pp. 317-319

consumer, is borne out by the Mississippi survey previously cited. The majority of the retail merchants of Mississippi shift the tax directly on each sale. The wholesalers and manufacturers, absorbing the tax, use the indirect method of passing the tax on as part of their business costs, including the tax in the price of the article. The incidence of the tax, even when not directly and immediately shifted, is seen to be, in the long run, on the ultimate consumer. There is no evidence of a backward shifting, by retailers to wholesalers or wholesalers to manufacturers, of Mississippi's general sale tax. The writer has secured no statements from business men attesting this practice; and the current general unstable condition of business precludes proving any such assertion by a study of any decline in profits.

The effect of sales tax on business is not limited, however, to the problem of incidence and shifting. Even though the tax is entirely shifted, its presence in the business structure must be taken into account. Tax shifting necessitates price manipulation, generally accomplished by raising the price of the article to cover the tax. The raising of the price ordinarily does not increase the utility of a commodity and will, according to economic theory, affect the demand. With the effective demand lessened through a raising of the price, production will have to be curtailed accordingly. The ultimate price

of an article will vary according to whether the business so taxed is one of constant, decreasing, or increasing costs. A tax upon the sales of a constant cost industry, one where the unit production costs are the same regardless of the quantity of units produced, tends to be shifted in full. Regardless of a decrease in demand or output, the full tax must be added to the price of the product in the long run, because business can not indefinitely operate at a loss. In the case of an industry of increasing costs, such as the extractive industries, the added tax will cause the demand and production to decline, the price being increased by an amount less than the tax, the decrease in unit production costs partly cancelling the price increase because of the tax. If the industry is one of decreasing costs, as is railroad transportation, the effect of the tax will be to increase the price of the product by an amount greater than the tax.⁹³

This economic theory was the basis for one of the strongest arguments presented against the enactment of the general sales tax in Mississippi. A tax which, according to economists, affected sales volumes was not to be supported by the merchants of the state. Despite

⁹³Hayes, Gordon, "The Incidence of a Sales Tax", Annals of the American Academy, Vol. XCV, (1921), pp. 237-253. Lutz, H. L., Public Finance, C. C. Cit., pp. 303-306

their protests, the tax "that would destroy business" was passed.⁹⁹ To determine whether or not sales volumes would slump as the result of the tax, those merchants who shifted the tax to the consumer directly by price raising were asked to give their opinion as to whether the sales tax had affected their sales volume. Of the 573 dealers who either shifted the tax entirely or in part, 335 stated that the tax had not affected their sales volume in any way. One hundred and thirty-five were of the opinion that their sales volume had decreased because of the tax, while 53 have no answer. Of the 135 claiming a decrease in sales volume, 28 believed that the tax caused customers to buy less, 21 charged the decrease to buying being done outside of the state in the nearby shopping areas. A check, however, in the two main out-of-state trading centers, Memphis and New Orleans, disclosed that, with the exception of automobiles, no merchant claimed that he had gained any trade from Mississippi territory because of the sales tax.¹⁰⁰ Twenty-one of the Mississippi merchants interviewed attributed their sales volume decrease to the mail order houses that can supply Mississippi consumers with tax free goods through the mails. However, of a number of

¹⁰⁰ Bulletin U. of Miss., Op. Cit., pp. 18-19

postmasters who were asked if their parcel post business had increased after the law went into effect, only one stated that his office had had an increase.¹⁰¹

With the great majority of Mississippi's merchants claiming no decrease in sales volume, it is necessary to reconcile the economic theory cited above with the results of the practical experience in Mississippi. One reason is that most of the merchants of the state, in shifting the tax, do not include the tax in the sales price but invoice it separately on each sale.¹⁰² This avoids, at least, the psychological effect on the customer that an increased price would have. A purchaser is more inclined to buy an article priced "Five Dollars, plus Tax" than he would be if the price tag read "Five Dollars and Ten Cents". Usually the tax is never mentioned by a merchant until payment is tendered. It has been the writer's experience that in many stores articles have been priced and purchased only to find that instead of paying the price designated, an extra cent or so was due for the tax. Another reason why little decrease in sales volume is experienced is the fact, mentioned before,¹⁰³ that the customer is aware that the extra amount charged is not

¹⁰¹Ibid., p. 19

¹⁰²See above, p. 38.

¹⁰³See above, p. 38.

an attempt on the part of the merchant to make an additional profit, but is a tax, levied by the state government, over which the merchant has no control. This realization, that the tax is an emergency measure designed to relieve the heavy taxes on property, served to dispel much of the resentment that customers might have toward paying the few extra cents tax on each purchase. That the added tax has not caused any appreciable decrease in the demand for commodities through its effect on the purchasing power is due, evidently, to the lightness of the tax burden. However, as there has recently been a reduction in the general property tax rates from eight to five mills¹⁰⁴, this economic argument, that payment of the tax must necessarily cause consumers to go without other things they would have purchased, is not without foundation.

Beside the prediction of decreasing sales volumes, the opponents of the general sales tax also claimed that the passage of the measure would incur such popular resentment that it would be impossible for the merchants to shift the tax to the consumers. The tax would then rest on business; and a tax based on gross sales or re-

¹⁰⁴Proclamation of the Governor, Sept. 25, 1934, by authority of Laws of 1932, Chap. 99, Sec. 2, Jackson Daily News, Sept. 26, 1934

ceipts, if not shifted, is unequal and unjust. It is true that a tax which is imposed on gross receipts or gross sales ignores the consideration of the varying ratios of profits and sales, efficiency and sales, and indebtedness and sales. For example, the following table shows how three retail dealers having the same gross sales might be affected.

	A	B	C
Gross Sales	\$100,000	\$100,000	\$100,000
Net Profits	4,000	8,000	2,000
Tax at 2%	2,000	2,000	2,000
Profits after Tax Paid	2,000	6,000	0,000
Ratio of Tax to Profits Remaining	100%	33 1/3%	0%

This effect can be further shown by applying the retail rate of 2% to the average net profits of various types of retail establishments according to the statistics of the Harvard Bureau of Business Research.¹⁰⁵

Business	Net Profit	Net Profit if 2% Tax Added
Dept. Stores	2.3%	0.3%
Gen. Mfg. Stores	3.4	1.4
Retail Drug Stores	6.8	4.3
Hardware Stores	5.8	3.8
Retail Shoe Stores	1.7	-0.3
Auto., Tire & Access.	1.1	-0.9
Retail Grocery	1.8	-0.2
Retail Jewelry	5.7	3.7

¹⁰⁵ Bureau of Business Research, Harvard University.
 Bulletins Nos. 13, 21, 22, 43, 43, 52, 54, and 57

But the condition shown above is present only when the tax is absorbed by the merchant and not passed on to the consumer. In Mississippi the predicted widespread resentment on the part of purchasers did not occur. The retail merchants found that the tax could be shifted directly and openly and, as was shown,¹⁰⁶ the majority now nullify the unequal effect on business of a tax based on gross sales by passing the tax on. The manufacturers and wholesalers are not entirely free from this objectionable feature because they, in the main, shift the tax indirectly on each sale. They are not, however, greatly concerned with the effect of gross sales as a tax base. The low rates of 1.3 of 1% for wholesalers and 1/4 of 1% for manufacturers, serve evidently, to make the above described effect of little consequence, as little antagonism is voiced by these businesses.¹⁰⁷

Another objection that is found in connection with a general sales tax collected from the transfers of commodities during the stages of production and distribution is that it offers a competitive advantage to the concern that combines several of the taxable transactions. If a large corporation extracts its own raw materials, transports them to its factory, manufactures and sells the

¹⁰⁶ See above, p. 38

¹⁰⁷ See below, p. 52

finished product directly to the final consumer, the manufacture and distribution of the commodity is ordinarily subject to only one tax. Competitors who perform only one of the above operations will pay a tax every time the commodity changes hands in its progression from the raw material stage to the ultimate consumer. An integrated concern, then, has a distinct competitive advantage in that it has a smaller tax to add to its prices. This not only shows a tendency of the general sales tax to discriminate against concerns performing only one of the operations connected with preparing a product for market; but it also indicates that such an arrangement will cause integration of business in an effort to avoid taxation. These objections have been voiced by critics of the sales tax in both Europe and the United States,¹⁰⁸ and evidence that they exist is shown by the efforts of governments to modify their sales taxes to avoid fostering business integration and the ensuing tax inequalities. The sales tax of Canada has been modified so as to limit the tax to licensed manufacturers and imports only.¹⁰⁹ This avoids giving any competitive advantage to integrated industry. The same purpose is accomplished in Kentucky by levying only a re-

¹⁰⁸Queller, Op. Cit., pp. 206-207

¹⁰⁹See above, p. 12

tail sales tax, which collected only once, at the time of the final retail stage, does not vary with the number of stages in production and distribution.¹¹⁰ Whether such integration is economically wise, or not, it is evident that the problem of tax evasion has been present in the minds of legislators.

While not limiting the tax to any one stage of production or distribution, which would necessarily narrow the tax base, Mississippi has embodied in her sales tax law provisions designed to offset this tendency of the general sales tax to give competitive advantages to integrated concerns. Mississippi's law levies the heaviest tax at the point where the commodity enters the hands of the ultimate consumer. No amount of integration will affect this final and main tax of 2%.¹¹¹ The taxes on manufacturing and wholesaling are fixed at a comparatively low rate.¹¹² Finally, the law specifically provides that if any person, taxed as an extractor or manufacturer, sells his products at retail, he is also to be taxed at the retail rate on the retail sales.¹¹³

¹¹⁰Edmond, R. W., "A New Source of State Revenue", Current History, Vol. XXXIII (Nov. 1933), p. 244ff

¹¹¹Sm. Rev. Act, Sections 2C, 2E, 2F, Appendix, pp. 72-74

¹¹²Ibid., Sec. 2B, 2C, Appendix, pp. 71-72

¹¹³Ibid., Sec. 2C, Appendix, p. 75

Likewise, all manufacturers who are extracting natural resources and consuming them in their business must pay a tax as extractors of raw materials as well as on the sale of the manufactured article.¹¹⁴ These provisions serve to offset any advantage that would be gained by combining the various functions of production and distribution in Mississippi, and preserve the different stages in manufacturing and wholesaling that would be eliminated by such vertical combination.

As a final objection, put forward by the business interests against the passage of a general sales tax in Mississippi, it was claimed that, even if business could avoid all the other harmful effects of the tax, the added clerical expense which would be necessary to compute the tax would be too heavy a burden for Mississippi merchants to bear. Many merchants, whose accounts were scantily kept, would have to employ additional help to keep an accurate check of the gross sales. Not only would the merchant have to bear the expense of computing his own tax at the end of each tax period; but, if he shifted the tax directly, he would have to be a tax collector every time a sale was made.

The actual operation of the sales tax in Mississippi has shown, however, that this argument was ex-

¹¹⁴Ibid.

aggregated. Of 740 retail merchants interviewed in the state, 503 stated that the sales tax imposed no additional overhead expense. One hundred and thirty-nine said that some added expense was incurred in the hiring of clerical assistance, while 90 gave no answer to the question.¹¹⁵ The simplified administration of the tax, wherein the merchant may easily compute the tax due on printed forms furnished by the Tax Commission, eliminates this final objection, namely that of leaving the merchant, at his own expense, the tax collector for the state.¹¹⁶

As the business men of Mississippi, through observation, began to realize that the sales tax was not having the effects that were predicted for it by its opponents, there occurred a most remarkable change in the attitude, as a group, toward this emergency measure. Within eight months after the adoption of the tax, the hostile business attitude, which had been evidenced by indignant mass meetings and marches on the state capital, had changed to one of support for the sales tax law. The following table, showing the change in the attitude of business toward the tax, is perhaps the

¹¹⁵ Bulletin, U. of Miss., Op. Cit., pp. 22-22

¹¹⁶ See above, p. 34

best conclusion that could be offered in relation to the actual effects of the Mississippi sales tax upon business.¹¹⁷

CHANGE OF BUSINESS ATTITUDE TOWARD TAX

BUSINESS	ORIGINALLY OPPOSED	NOT OPPOSED	% OF DECREASE OF OPPOSITION
RETAILERS	515	275	44.6
WHOLESALE	44	19	56.3
MANUFACTURERS	28	14	50.0

BUSINESS	ORIGINALLY FAVORED	NOT FAVOR	% INCREASE IN FAVOR
RETAILERS	166	420	153.5
WHOLESALE	26	52	100.0
MANUFACTURERS	43	57	32.5

As the sales tax is largely paid from the incomes of the consumers, no study of the operation of the tax would be complete without the consideration of the effects of the sales tax on the ultimate taxpayer. The general theoretical effects of a sales tax on consumers must be studied in the light of the peculiar conditions in Mississippi that serve to lessen the otherwise bad effect that the tax would have.

¹¹⁷ Bulletin, U. of Miss., Op. Cit., p. 22

Modern economists seem to agree that the principle of ability to pay is the most just standard that can be followed in taxation.¹¹⁸ While various measures have been used as a test of the ability to pay,¹¹⁹ it is generally recognized that ability to pay leads to taxation at progressive rates where practicable.¹²⁰ A general sales tax is a tax on consumption at uniform rates. Consumption, however, is not a satisfactory index of ability to pay taxes, in that a general consumption tax falsely assumes that the gross expenditures of an individual will show his taxing capacity. Several individuals, for example, might spend the same amount annually, yet their expenditures would not indicate their ability to pay. One might have an income of \$6000, saving \$4000. Another, a bachelor, might spend his entire income of \$2000. A third, perhaps married and with several children, also spends his entire income of \$2000. The individual expenditures of \$2000, on which all are taxed, give little indication of the tax paying ability

¹¹⁸Seligman, E. R. A., Essays in Taxation, (New York, 1926), pp. 333-342. B. stable, Op. Cit., Chap. 3

¹¹⁹Property, net income, inheritance.

¹²⁰Lutz, Op. Cit., pp. 275-277. Seligman, Progressive Taxation, pp. 190-200; Stamp, Principles of Taxation, Chap. 6; Flehm, Introduction to Public Finance, p. 93, cited in Buehler, Op. Cit., p. 225

of these persons. The married taxpayer, with all his financial responsibility, pays at the same rate as the others. Also the man of little income is taxed on consumption at the same rate as the man of great wealth. The poor man will pay the same tax on a loaf of bread as will the more fortunate individual. The tax dollars paid by the man of low income have a much higher marginal utility than those paid by the wealthy person. This shows that the economic status of the individual is ignored by a tax on consumption. By thus laying a comparatively heavier tax on persons of small income, the general sales tax is regressive, violating the principle of the ability to pay.

The theoretically unjust effect of a general sales tax on consumers loses much of its force, however, when the particular conditions surrounding its enactment in Mississippi are considered. Mississippi's sales tax was levied for the purpose of relieving the heavy taxes borne by real property. With the rural farm land of the state assessed at an amount ten times greater than the total value of goods, wares, and merchandise,¹²¹ the general sales tax was an attempt to adjust inequalities in the tax system rather than add new ones. This it does by shifting a tax burden from property owners, who were rapidly losing their

¹²¹See above, p. 5

land through tax sales, to non-property owners of greater tax paying ability.

The general sales tax appears, in Mississippi, to be especially fitted to accomplish the task of relieving the heavy taxes borne by real property. A net income tax, while theoretically a more just tax, is not as well suited to the peculiar conditions found in the state. The proper administration of an income tax in Mississippi, with eighty per cent of its population classed as rural,¹²² and with small farms having non-existent or at least poorly kept agricultural accounts, could not be had without entailing unduly high administrative costs to the state. Even if proper administration could be had, the yield, in a state like Mississippi, with low per capita wealth and income, would be so slight as to make the measure of little service in solving the state's emergency.

According to reports of the State Tax Commission, the returns show that the largest single expenditure of the people of the state was for food.¹²³ By studying this report with the fact in mind that the rural population contribute a very small amount of the tax money on food, the conclusion is drawn that the tax, in this respect,

¹²²U. S. Dept. of Commerce, Bureau of Census,
15th Federal Census 1930

¹²³See Service Bulletins, Statistics and Reports
of State Tax Commission, Op. Cit., 1932-33

rests more heavily on the urban population. The same reasoning applies to many other groups of commodities listed in the report, such as automobiles, drugs, hotel accommodations, and jewelry.

The fact that the tax rests more heavily on the urban population would give the impression that, though the rural 30% of the people are little concerned with the tax, the dwellers in the towns would be bitterly opposed to it. Such opposition, however, is not found in Mississippi. A report by 573 retail dealers of the state showed that only 109 of them claimed that the majority of their customers resented paying the tax.¹²⁴

DEALER	NO RESENT	NO RESENT	MAJORITY RESENT	NO NUMBER
407 CHIFT	225	134	42	6
166 ABSORB NO CHIFT	47	47	67	7
573 TOTAL	272	179	109	13

Another beneficial result that is claimed by sales tax supporters in Mississippi is that it distributes the tax burden more equally between the races. Out of Mississippi's population of 2,000,321, over half are

¹²⁴Bulletin U. of Miss., Op. Cit., p. 21

negroes.¹²⁵ The majority of the colored people in the state contribute very little directly to the support of the state and county government, such as schools and roads. Owning no property, or none over the amount which is exempt, they pay no taxes; yet all the benefits of the government are theirs to use. With the advent of the sales tax for the first time in its history, Mississippi is collecting revenue directly from the negroes. The fact that many merchants report resentment to paying the tax mainly on the part of the negroes is an indication of the fact that any allocation of the tax burden always meets with strenuous objection of the new taxpayer.¹²⁶ The advantages thus gained by widening the tax base, together with lowering the taxes on persons bearing now more than their share, serve to make the tax fit Mississippi conditions.

The sales tax, however, is not suggested as a tax to take the place of the property tax or other forms of taxation now in use in Mississippi. According to Governor Connor, the sales tax is intended to serve as the base for the state's taxation system. The system is to include the sales tax as a broad base, paid by everyone; a property tax paid by the more favored whose property is protected by the

¹²⁵Federal Census, Op. Cit.

¹²⁶Bulletin U. of Miss., Op. Cit., p. 21

government; a net income tax, paid by the still more favored and able, who enjoy a capacity to earn more than the necessities; and privilege taxes to be paid by the special few for franchises and privileges especially granted to them.¹²⁷

¹²⁷Connor, M. S., Jackson Daily News, Feb. 16, 1933

VIII RESULTS AND CONCLUSIONS

That the sales tax of Mississippi could meet the emergency for which it was created was doubted by many. To furnish the \$2,000,000 per year that was necessary to balance the state's budget,¹²⁸ the tax would have to bring in over \$166,000 every month. When the receipts of the first month totaled only \$127,612.12,¹²⁹ it appeared that the virtues of the sales tax as a revenue measure had been overestimated. But a check of tax receipts after the first six months of operation indicated that the tax was not only living up to legislative expectations, but that it had brought in over \$170,000 more than was expected.¹³⁰ The returns for these first months also showed that each inhabitant was paying an average of nine and seven-tenths cents sales tax each month.¹³¹ The following table gives the revenue collected for each of the first six months of operation, showing the per capita collection.¹³²

¹²⁸See above, p. 8

¹²⁹State Tax Commission, Sales Tax Statistics, Jan. 1, 1933

¹³⁰Ibid.,

¹³¹Ibid.

¹³²Ibid.

MONTH	REVENUE	PER CAPITA COLLECTION
May	\$127,812.12	6.4%
June	173,977.90	8.9
July	197,096.71	9.8
August	173,633.71	8.9
September	230,392.02	11.5
October	260,764.06	13.0
TOTAL	\$1,173,721.15	58.5%
Average Monthly Per Capita		9.7%

In the eight months left in 1932, after the passage of the sales tax, and through 1933, the tax more than equalled the estimates made for it. In this period, which lacked six months of being two full years, the revenue from the sales tax amounted to \$4,153,059.55; a \$153,000 surplus over estimates for a full two year period.¹³³

The major portion of the revenue received was derived from the group, taxed under Section 20,¹³⁴ known as the retail sales group. Eighty per cent of the revenue received under the Act comes from this levy on retail merchants. The following table, for the period from May 1, 1932 to October 31, 1932, shows the revenue received from the six basic groups taxed under the sales tax law.¹³⁵

¹³³State Tax Commission, Special Report of Revenues and Expenditures, Biennium 1932-1933.

¹³⁴Appendix, p. 72

¹³⁵Sales Tax Statistics, Op. Cit.

GROUP	REVENUE	PERCENT TO TOTAL REVENUE
Retail Sales	\$946,473.30	30.639
Professional & Personal Service	21,173.39	1.804
Manufacturers	53,925.75	5.021
Wholesalers	35,672.24	3.139
Nat. Resources	2,114.07	.120
Pub. Utilities	109,352.40	9.317
TOTAL	\$1,173,721.15	100.0

If the sales tax revenues are studied from the view point of the returns according to the different rates imposed, it is seen that the 2% rate, which is levied on other businesses as well as on retail sales, accounts for over 33% of the sales tax returns. The following table shows the revenue produced for six months by the five rates.¹³⁶

TAX RATE ¹³⁷	REVENUE	% TO TOTAL REVENUE
2%	884.41	.076
2	\$1,040,293.26	30.632
1	49,496.64	4.217
1/4	47,373.60	4.036
1/8	35,672.24	3.139
TOTAL	\$1,173,721.15	100.0

¹³⁶ Ibid.

¹³⁷ See above, pp. 23-26 for businesses to which the rates apply.

By comparing this table with the one preceeding, it is shown that all but \$93,814.96 of the revenue above indicated as coming from the 2½ rate is paid by the retail merchants.

In judging the results of the sales tax as a revenue source, the critics were likewise interested in the cost of administering this new form of taxation in Mississippi. It was said that the cost of collecting such a tax would be unduly high. Mississippi has shown, however, that by efficient administration, the cost of collecting a sales tax need not be great. The report of the State Tax Commission shows an average cost of 3.8 cents for each dollar of revenue collected during the first six months of operation, 3.41 cents at the end of 1933.¹³³ These figures can be judged to be particularly satisfactory when it is considered that the sales tax is a new form of tax, and that it was enacted over vigorous opposition of the business interests. The following table compares the cost of the collecting the sales tax for the year 1932-1933 with the collection costs of other state taxes.¹³⁹

¹³³ Sales Tax Statistics, Op. Cit., and State Tax Commission, Special Report for 1932-33, p. 9

¹³⁹ Special Report of State Auditor for 1932-1933, Op. Cit., p. 10 and Statement of Research Auditor, State Tax Commission, Letter to the writer, Aug. 1, 1934

TAX	COST PER DOLLAR REVENUE
Sales Tax	3.41%
Income and Franchise Tax	4.42
Tobacco and Salt Tax	2.71
Amusement Tax	3.26
Inheritance Tax	4.77
General Property Tax	4.00 (estimated)

A commendable feature of the tax is its exemption list which is small enough so as not materially to decrease the sales tax returns. Certain types of sales, such as interstate sales, are not taxable; others, such as sales of agricultural products, are specifically exempted by the act. The very favorable figure, which shows that Mississippi takes all but 11.5% of the total sales within her borders, speaks well for the legislative determination not to have the efficiency of the sales tax decreased by a host of exemptions. The following classification shows the types of sales which are not taxed, giving the total untaxed gross sales from January through September, 1935.¹⁴⁰

¹⁴⁰Service Bulletin, Dec. 1933, Op. Cit.

CLASSIFICATION OF SALES	AMOUNT OF SALES	% OF TOTAL SALES
Sales to the United States	2,572,749.00	
Sales to the State of Mississippi	916,473.00	
Interstate Commerce Sales	432,829.00	
Sales of Fertilizer, Crates, Bails, etc.,	1,353,134.00	
Gasoline and Oil Taxes Deducted from Sales	6,435,713.00	
Tobacco Taxes Deducted from Sales	923,511.00	
Sales of Agricultural Products	311,333.00	
Sales of Goods taken in Exchange	342,924.00	
Misc. (freight, discounts, school books, etc.)	1,694,753.00	
TOTAL NET-TAXABLE SALES	13,540,492.00	7.7%
TOTAL EXEMPT SALES	6,711,220.00	3.3
GRAND TOTAL	\$20,251,692.00	11.5%

That the sales tax has met the emergency, for which it was created is perhaps the foremost conclusion that can be drawn concerning its operation in Mississippi. As revenue from the tax is derived from all varieties of business, the government is assured of reasonably constant returns. Through the sales tax the budget of the State has been successfully balanced, the bonds of the State, uncallable in 1932, are calling at par, and the biennium 1932-1933 was concluded with a surplus in the treasury of over one million dollars. As an emergency measure the sales tax can be justified by this prime requisite of fis-

cal adequacy alone.

Mississippi's experience has shown, however, that the sales tax may also have the essential of economy of operation as well as that of productiveness. Though a new and experimental type of tax, the cost of administering the sales tax in Mississippi is lower than that of many other more well established taxes collected by the state.

A tax may be productive and economically collected and still have a bad economic effect through its gradual depletion of the surplus of business and of individuals. As the business of Mississippi, however, has not been seriously affected, and as the majority of the consumers favor the measure, the sales tax appears to be not only economical in its immediate administration, but economical in regard to its long run effect upon industry and upon the consumers who are the ultimate taxpayers.

When viewed separately, Mississippi's sales tax is not theoretically an equitable tax, being levied on gross receipts or sales. A tax on such a base is not a true indication of ability to pay and is regressive in its effect. Beside the fact that the tax is shifted in the main, when the sales tax is considered as a part of the whole state revenue system, it is seen that it serves to make the entire tax system even more equitable and diversified by relieving the heavy taxes on property.

Another equitable feature is that it taxes a taxpayer of every person who enjoys the benefits of the state government. Because the tax has such a wide base, the rates are low and no heavy burden is imposed on any class or section in the state. The tax is paid conveniently in small amounts throughout the entire year rather than in a lump sum.

Another requisite of sound taxation, which is found in the Mississippi sales tax, is simplicity. The taxpayer is able to easily compute his own tax and can definitely ascertain what his tax burden is to be. He deals with one central commission whose responsibility is to the governor alone.

Although the sales tax of Mississippi is flexible, in that extensions of time for filing tax returns may be granted at the discretion of the tax commissioner, the rates of the tax are fixed and can only be changed by legislative enactment. If the rates could be altered easily to meet changing conditions, the tax would meet fully the requirement of flexibility.

In Mississippi, however, the great danger lies in the fact that, as the tax is so remunerative and so painless in collection, the legislature might be strongly tempted to continually raise the rates in an effort to secure more revenue. This could easily cause the rates to be raised to such a point that Mississippi's successful

revenue experiment would degenerate into a veritable Alca-
vals.

That the stamp of public approval was bestowed on Mississippi's Emergency Revenue Act of 1932 can be shown in no clearer way than to cite the action of the state legislature upon the expiration of the Act on May 1, 1932.¹⁴¹ By a large majority, the sales tax law was re-enacted for the biennium 1934-1935, the only change in the law being the omission of the flat exemption of \$1200.00.¹⁴² This new law, according to legislative estimates, will produce \$6,500,000.00 in the next two years.¹⁴³ Twenty-nine and sixty-three hundredths cents of every revenue dollar will come from the sales tax, more revenue than will be secured from any other one source.¹⁴⁴ It has also brought about the revision of the general property tax to allow homesteads to be exempt from the state property tax to the extent of \$1000.00 in value and up to forty acres of land, and a reduction in the ad valorem rate from eight to five mills.¹⁴⁵ It is evident that the desire of the Governor to have the sales tax re-

¹⁴¹Em. Rev. Act, Appendix, p. 39

¹⁴²Laws of State of Mississippi, 1934, Chap. 119

¹⁴³State Tax Com., Service Bulletin 1934, p. 10

¹⁴⁴Ibid., p. 5

¹⁴⁵Laws of 1934, Op. Cit., Chap. 120 and Governor's Proclamation, Op. Cit.

place tax sales¹⁴⁶ has, to an appreciable degree, been realized.

¹⁴⁶Connor, H. G., Memphis Commercial Appeal,
Oct. 6, 1932

APPENDIX

THE EMERGENCY REVENUE ACT OF 1932

STATE OF MISSISSIPPI

House Bill No. 323
As Amended By
House Bill No. 953

AN ACT to provide for the raising of additional public revenue by imposing a tax upon the privilege of engaging in certain businesses in Mississippi, to provide for the ascertainment, assessment and collection of said taxes; to provide penalties for the violation of the terms of this Act and to repeal Sections 1 to 20 of Article 1 of Chapter 90, of the Laws of Mississippi of 1930.

Section 1. Be it enacted by the Legislature of the State of Mississippi, That this Act may be cited as the Emergency Revenue Act of 1932.

When used in this Act, the term "person" or the term "company," herein used interchangeably, includes any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

The term "Tax Commission" means the State Tax Commission of the State of Mississippi.

The word "Commissioner", when used in this act, means the Chairman of the State Tax Commission.

The term "tax year" or "taxable year" means either the calendar year, or the taxpayer's fiscal year when permission is obtained from the Tax Commission to use same as the tax period in lieu of the calendar year.

The term "sale" or "sales" includes the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale.

The word "taxpayer" means any person liable for any tax hereunder.

The term "gross income" means the gross receipts of a taxpayer received as compensation for personal services for the exercise of which a privilege tax is imposed in this state and the gross receipts of the taxpayer derived from trades, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts, actual or accrued, by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, interest or discount paid or any other expenses whatsoever; and without any deduction on account of losses.

The term "business" when used in this act shall include all activities or acts engaged in (personal, professional and corporate) or caused to be engaged in with the object of gain, benefit or advantage either direct or indirect, and not exempting sub-activities producing marketable commodities used or consumed in the main business activity, each of which sub-activities shall be considered business engaged in, taxable in the class in which it falls.

The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible property without any deduction on account of the cost of property sold, expenses of any kind, or losses; provided, however, that cash discounts allowed and taken on sales shall not be included as gross income. But the words "gross income" and "gross proceeds of sales" shall not be construed to include goods, wares or merchandise, or the value thereof, returned by customers when the sale price is refunded either in cash or by credit; nor the sale price of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in the "gross income" or "gross proceeds of sales" as the case may be.

The term "engaging" as used in this Act with reference to engaging or continuing in business shall also include the exercise of corporate or franchise powers.

The term "Auditor" as used in this Act means the Auditor of Public Accounts of the State of Mississippi.

Sec. 2. Tax Levied After April 30, 1932. From and after the 30th day of April, One Thousand Nine Hundred Thirty-Two, there is hereby levied and shall be collected, a annual privilege taxes, measured by the amount of volume of business done, against the person, on account of the business activi-

ties, and in the amount to be determined by the application of rates against values or gross income, or gross proceeds of sales, as the case may be, as follows:

Sec. 2-a. Upon Whom Levied.-- Upon every person engaging or continuing within this State in the business of mining and producing for sale, profit, or commercial use, any oil, natural gas, limestone, sand, gravel, or other mineral product, or felling and producing timber for sale, profit or commercial use, the amounts of such tax to be equal to the value of the articles produced as shown by gross proceeds derived from the sale thereof by the producer (except as hereinafter provided) multiplied by the respective rates as follows:

Oil, two per cent; natural gas, two and one-half per cent; Limestone, Sand Gravel, or other mineral products, two per cent; Timber, two per cent.

Provided, that the actual freight paid by the taxpayer on such limestone, sand, timber, gravel or other mineral products to place of delivery, shall be deducted from the gross proceeds of sale, if and when the same is sold on a delivered price.

The measure of this tax is the value of the entire production in this state regardless of the place of sale, or the fact that deliveries may be made to points outside the state.

Provided, however, that only persons engaged principally in the business of buying, logging and selling timber for commercial purposes (except as otherwise provided in Section 2-h), shall be required to pay the tax measured by the value of the timber produced.

Sec. 2-b. Upon every person engaging or continuing within this State in the business of manufacturing, compounding, or preparing for sale, profit, or use, any article or articles, substance or substances, commodity or commodities, the amount of such tax to be equal to the value of the articles manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same (except as hereinafter provided), multiplied by the respective rates as follows:

Manufacturers of brick, drain tile, building tile, sewer pipe, Portland cement and Portland cement products and clay products, one per cent; manufacturers of bottled soft drinks, one per cent; icefactories one-fourth of one per

cent and cotton seed oil mills, one-fourth of one per cent; all other manufacturers on whose gross income a tax is not otherwise levied in this Act, one-fourth of one per cent.

The measure of this tax is the value of the entire product manufactured, compounded, or prepared for sale, profit or use in this state, regardless of the place of sale or the fact that deliveries may be made to points outside the state. But the actual freight charges prepaid by the taxpayer, or included in the invoice price, on such manufactured products, to the place of delivery, shall be deducted in determining the value of such manufactured products to be used as the measure of the tax imposed in this section.

If any person liable for any tax under Sections 2-a or 2-b shall ship or transport his products or any part thereof out of this state without making sale of such products, the value of the products or articles in the condition or form in which they existed when transported out of the state and before they enter interstate commerce, shall be the basis for assessment of the tax imposed in said paragraphs; and the commissioner shall prescribe equitable and uniform rules for ascertaining such value.

In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the Commissioner shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by the other taxpayers where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions.

Sec. 2-c. Upon every person engaging or continuing within this state in the business of selling any tangible property whatsoever, real or personal, (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied and shall be collected, a tax equivalent to two per cent of the gross proceeds of sales of the business; provided, however, that in the case of an automobile dealer or agent the tax shall be equivalent to one per cent of the gross proceeds of sales of automobile and/or trucks and tractors. The classification of wholesaler or jobber shall be used only by any person doing a regularly organized wholesale or jobbing business, known to the trade as such, selling only to licensed retail merchants or jobbers.

Provided however, that any person engaging or continuing in business as a retailer and a wholesaler or jobber shall pay the tax required on the gross proceeds of sales of each such business at the rates specified, when his books are kept so as to show separately, the gross proceeds of sale of each business, and when his books are not so kept he shall pay the tax as a retailer; and provided, further, that any such person engaging or continuing in business as a retailer and a wholesaler or jobber shall pay the tax as a retailer on the gross proceeds of sale derived from all sales made by him to any person other than a licensed merchant.

Sec. 2-d. Upon every person engaging or continuing within this state in the business of owning and/or operating a water or public sewerage system, or owning and/or operating a street railway for the transportation of freight or passengers for hire, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to two per cent of the gross income of the business.

Upon every person engaged or continuing within this state in the business of furnishing to consumers electricity, electric lights, current power or gas, natural or artificial, there is likewise hereby levied and shall be collected a tax on account of the business engaged in when gas and/or electricity is sold for industrial purposes, one per cent, and on said gas companies and electric light and power companies when gas and/or electricity is sold for any and all other purposes, two per cent.

Upon every person engaging or continuing within this state in the business of owning and/or operating a telegraph business, and/or owning and/or operating a telephone business for the transmission of messages and/or conversations to, from, through, in or across this state, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to two per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating a railroad for the transportation of freight, and/or passengers for hire, there is likewise hereby levied and shall be collected a tax on account of the business engaged in equal to two per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating a sleeping or palace car business carrying passengers from one point to another in this state, there is likewise hereby levied and shall be

collected a tax, on account of the business engaged in, equal to two per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating an express business transporting freight and/or passengers from one point to another in this state, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to two per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating a pipe line for transporting in or through this state, oil and/or natural gas and/or artificial gas through pipe and/or conduits in this state, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to two per cent of the gross income of the business.

Upon every person engaging or continuing within this state in the business of operating motor vehicles on the public highways of this state between fixed termini or over a regular route for the transportation of persons or property for compensation or hire, there is likewise hereby levied and shall be collected a tax, on account of the business engaged in, equal to two per cent of the gross income of the business, but this shall not apply to persons engaged in transporting school children under contract with counties or school districts.

There shall be excepted from the gross income so to be taxes so much thereof as is derived from business conducted in commerce between this state and other states of the United States, or between this state and foreign countries, which the State of Mississippi is prohibited from taxing under the Constitution of the United States of America. Nothing in this section shall be construed to levy a tax upon the operation by municipal corporations of any electric or water systems owned by the municipality operating it.

Sec. 2-e. Upon every person engaging or continuing within this state in the business of contracting as defined in the Privilege Tax Laws of this state, and amendments thereto, there is likewise hereby levied, and shall be collected, a tax equal to one per cent of the gross income of the business.

Sec. 2-f. Upon every person engaging or continuing within this state in any business, profession, trade or calling subject to a privilege tax under the Privilege Tax Laws of this state, and amendments thereto, and not included in the preceding sections, there is likewise hereby levied and

shall be collected a tax equal to two per cent of the gross income of any such business. Provided, however, that nothing in this section shall apply to classes of business that are required to pay the tax under the Amusement Tax Law.

Sec. 2-g. Nothing in this Act shall be construed so as to require the use of any gross income or gross proceeds of sales, as the case may be, in the measure of the tax levied under Section 2-c that has been included in the measure of the tax levied under Section 2-a and/or Section 2-b hereof.

Provided, however, that any person exercising any privilege taxable under Section 2-a and/or Section 2-b of this Act and engaging in the business of selling his natural resource products or manufactured products at retail in this state shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in Section 2-c of this Act for the privilege of engaging in the business of selling such natural resource products or manufactured products at retail in this state. But any such person exercising any privilege taxable under Section 2-a and/or 2-b of this Act and engaging in the business of selling his natural resource products or manufactured products to wholesalers or jobbers or retailers or manufacturers shall not be required to pay the tax imposed in Section 2-c of this Act for the privilege of selling such natural resource products or manufactured products at wholesale.

Manufacturers exercising any privilege taxable under Section 2-b of this Act shall not be required to pay the tax imposed in Section 2-c of this Act for the privilege of selling their manufactured products for delivery outside of this state, but the gross income derived from the sale of such manufactured products outside of this state shall be included in determining the measure of the tax imposed on such manufacturer in said Section 2-b.

All persons exercising privileges taxable under Section 2-b, 2-c, 2-d, 2-e, or 2-f, producing minerals or timber, the production of which is taxable under Section 2-a, and using or consuming same in their business, shall be deemed to be engaged in the business of mining and producing minerals or timber for sale, profit or use and shall be required to make returns on account of the production of said minerals or timber showing gross proceeds therefrom, or the equivalent thereof, in accordance with uniform and equitable rules for determining the value upon which such privilege taxes shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers, which rules the Commission-

er shall prescribe.

Sec. 2-h. Manufacturers shall not be required to make returns on account of mining and/or producing timber or minerals or other products (excepting however, oil or gas) when manufactured, compounded or prepared for sale in mills or plants located in this State, taxable under Section 2-b hereof, and where the total gross proceeds of sales is included in the measure of the tax by such manufacturers, but the total gross proceeds of sales of any such timber or minerals shipped or transported out of this State shall be returned and included in the measure of the tax imposed by Section 2-a; and persons exercising privileges taxable under Section 2-a (other than persons engaging or continuing in the business of mining and producing for sale, profit or commercial use, oil and/or natural gas) shall not be required to include in the measure of the tax imposed thereby, any gross proceeds derived from sales to persons, taxable under Section 2-b hereof; but every person exercising privilege taxable under Section 2-a shall make the return required and show the amount of the gross proceeds, or gross income, from each person to whom the timber or minerals were sold; and the Commission shall prescribe uniform and equitable rules for the making of such reports, and for determining such values in such cases.

Sec. 2-i. Any person engaging in two or more forms of business of like character, taxable under this Act, shall file a consolidated return covering all business activities of such like character engaged in within this state and shall be entitled to deduct the amount of exemption allowed in Section 4 (ee) from the gross income of the business as a whole, as shown in such consolidated return.

Sec. 2-j. In computing the amount of tax levied hereunder, however, for any year, there shall be excepted from the values, or from the gross income of the business, or gross proceeds of sales as the case may be, all sums received or collected as taxes on admissions, and all sums received or collected as taxes on the sale of tobacco, gasoline and/or oil.

Sec. 2-k. In computing the amount of tax levied under this Act, there shall be excepted from the gross income of the business, or gross proceeds of sales, as the case may be, so much thereof as is derived from sales to the United States Government or the State of Mississippi, its departments and institutions, or from business which the State of Mississippi is prohibited from taxing under the Constitution of this State or the Constitution of the United States.

Sec. 3. Must Obtain License from the Commissioner.--

If any person after the 30th day of April, 1932, shall engage or continue in any business for which a privilege tax is imposed by this Act, as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the Commissioner, upon the payment of the sum of One Dollar, a license to engage in and to conduct such business for the current tax year, upon the condition that he shall pay the tax accruing to the State of Mississippi under the provisions of this Act; and he shall thereby be duly licensed to engage in and conduct such business. Said license shall be renewed annually, and shall expire on the 30th day of April next succeeding the date of its issuance.

Sec. 4. Certain Persons Exempt from Provisions. -- There are, however, exempted from the provisions of this Act;

(a) Insurance companies which pay the State of Mississippi a tax upon premiums levied under the provisions of the laws of the State; and persons paying a tax under the Sea Foods Act

(b) Building and Loan Associations, State and National Banks, and mutual savings banks, not having a capital stock represented by shares and which are operated exclusively for the benefit of their depositors.

(c) Labor, Agricultural and Horticultural Societies and organizations not operated for profit; and sales made by persons who produce live stock, poultry and other products of farm, grove or garden, whether said sales be made by the producer, or members of his immediate family, or employees forming a part of the producer's organization, in the original state or condition of preparation for sale, and sales of fertilizers, seeds, boxes and/or crates, for use in preparing agricultural products for market; cemetery associations and companies which are organized and operated exclusively for the benefit of their members; fraternal benefit societies, orders or associations operating under the lodge system, and providing for the payment of death, sick, accident or other benefits to the members of such societies, orders or associations, and to their dependents; corporations, associations or societies organized and operated exclusively for religious, charitable, scientific or educational purposes; business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare; none of which companies, organizations, corporations or societies, named in clause (c) of this section are organized for profit and no part of the income of which inures to the benefit of any private stockholder or individual.

(d) Amounts received under life insurance policies and contracts paid by reason of the death of the insured.

(e) Amounts received (other than amounts paid by reason of death of the insured) under life insurance endowment or annuity contracts, either during the term or at maturity, or upon surrender of the contract, equal to the total amount of premiums paid thereon.

(ee) In computing the amount of tax levied under the provisions of this Act for any year, there shall be deducted from the values or from the gross income or receipts of the business as the case may be an exemption of \$1,200.00 of the amount of such values or gross income or receipts. Every person exercising any privilege taxable hereunder for any fractional part of the tax year shall be entitled to an exemption of that part of the sum of \$1,200.00 which bears the same proportion to the total sum that the period of time during which such person is engaged in such business bears to a whole year. When monthly or quarterly returns are filed as provided in this Act, a proportionate part of the exemption granted in this section may be claimed and allowed on each monthly or quarterly return.

(f) Amounts derived from the sale of school books where the sale price is fixed by state contract.

(g) Amounts received by hospitals, infirmaries and/or sanitarium.

Nothing in this Act shall be construed as levying any tax upon the gross proceeds received from the sale of any cotton or seed cotton or lint cotton or baled cotton whether compressed or not or cotton seed in its original condition.

Sec. 5. The taxes levied hereunder shall be due and payable in monthly installments, on or before the 15th day of the month next succeeding the month in which the tax accrues. The taxpayer shall, on or before the 15th day of the month make out a return, showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same together with a remittance, in the form required by Section 13 of this Act, for the amount of the tax, to the office of the Commissioner. Such monthly return shall be signed by the taxpayer or a duly authorized agent of the taxpayer, but need not be verified by oath.

Provided, however, that any person taxable under this Act, having cash and credit sales, may report such cash and credit sales separately, and upon making application therefor may obtain from the Commissioner an extension of time for the payment of taxes due on such credit sales. Such ex-

tension shall be granted by the Commissioner under such rules and regulations as the commissioner may prescribe. When such extension is granted, the taxpayer shall thereafter include in each monthly report, all collections made during the month next preceding, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in determining the measure of the tax to be paid until collection of such credit sales shall have been made.

Provided, however, that when the total tax for which any person is liable under this Act does not exceed the sum of Ten Dollars (\$10.00) for any month, a quarterly return and remittance in lieu of the monthly return may be made on or before the 15th day of the month next succeeding the end of the quarter for which the tax is due.

Provided, further, that when the total tax for which any person is liable under this Act does not exceed the sum of Ten Dollars (\$10.00) in any quarter year he shall not be required to make either monthly or quarterly returns, but an annual return and remittance shall be required, under rules and regulations to be prescribed by the Commissioner, such annual return and remittance to be made on or before the 30th day of the month next succeeding the end of the tax year for which tax is due.

The monthly, quarterly and annual returns required under this Act shall be made upon forms to be prescribed by the Commissioner.

The Commissioner for good cause may extend the time for making any return required under the provisions of this act, and may grant such reasonable additional time within which to make such return as he may deem proper, but the time for filing any such return shall not be extended beyond the 15th day of the month next succeeding the regular due date of such return.

Sec. 6. Returns To Be Made--When--How Made.-- On or before thirty days after the end of the tax year, each person liable for the payment of a privilege tax under Section 2 and succeeding sections of this Act shall make a return showing the gross proceeds of sales, or gross income of business, and compute the amount of tax chargeable against him in accordance with the provisions of this Act, and deduct the amount of monthly or quarterly payments, (as hereinbefore provided) if any and transmit with his report a remittance in the form required by Section 13 of this Act covering the residue of the tax chargeable against him to the office of the commissioner; such return shall be

verified by the oath of the taxpayer, if made by an individual, or by the oath of the President, Vice-president, Secretary or Treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, joint adventure, association, trust, estate, or any other group or combination acting as a unit, any individual delegated by such firm, co-partnership, joint adventure, association, trust, estate or any other group or combination acting as a unit shall make the oath on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to make oath, the same may be made by any duly authorized agent. The Commissioner for good cause shown may extend the time for making the annual return on the application of any taxpayer and may grant such reasonable additional time within which to make the same as may, by him, be deemed advisable.

Sec. 7. Commissioner To Correct Error.--As soon as practicable after the return is filed the Commissioner shall examine it; if it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed. If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be credited against the subsequent payment; and if the amount already paid exceeds the correct amount of the tax, the excess shall be credited or refunded to the taxpayer in accordance with the provisions of this Act.

If the amount already paid is less than the amount which should have been paid, the difference to the extent not covered by any credits under this Act, together with interest thereon at the rate of one-half of one per centum per month from the time the tax was due shall be paid upon notice and demand by the Commissioner.

If any part of the deficiency is due to negligence or intentional disregard to authorized rules and regulations with knowledge thereof but without intent to defraud, there shall be added as damages, ten per centum of the total amount of the deficiency in the tax, and interest in such case shall be collected at the rate of one per centum per month on the amount of such deficiency in the tax from the time it was due, which interest and damages shall become due and payable upon notice and demand by the Commissioner.

If any part of the deficiency is due to fraud with intent to evade the tax, then there shall be added as damages not more than one hundred per centum of the total amount of the deficiency in the tax, and in such a case the whole amount of tax unpaid, including charges so added, shall become due and payable upon notice and demand by the Commis-

sloner, and an additional one per centum per month on the tax shall be added from the date such tax was due until paid.

Sec. 8. Taxpayer Must Keep Records--Duty and Power Of Commissioner.-- It shall be the duty of every person engaging or continuing, in this State, in any business for which a privilege tax is imposed by this Act to keep and preserve suitable records of the gross income, gross receipts and/or gross receipts of sales of such business and such other books or account as may be necessary to determine the amount of tax for which he is liable, under the provisions of this Act. And it shall be the duty of every such person to keep and preserve, for a period of two years, all invoices of goods and merchandise purchased, for resale, and all such books, invoices and other records shall be opened for examination at any time, by the Commissioner or his duly authorized agent.

If no return is made by any taxpayer required to make returns as provided herein, the Commissioner shall give written notice by registered mail to such taxpayer to make such returns within thirty days from the date of such notice and if such taxpayer shall fail or refuse to make such returns as he may be required to make in such notice, then such returns shall be made by the Commissioner from the best information available, and such returns shall be prima facie correct for the purposes of this Act, and the amount of tax shown due thereby shall be a lien against all the property of the taxpayer until discharged by payment and if payment be not made within thirty days after demand therefor by the Commissioner, there shall be added not more than one hundred per centum as damages together with interest at the rate of one per centum per month on the tax from the time such tax was due. If such tax be paid within thirty days after notice by the Commissioner, then there shall be added ten per centum as damages and interest at the rate of one per centum from the time such tax was due until paid; provided, however, in the event such taxpayer in answer to said notice from the Commissioner shall investigate that question fully before proceeding farther under this section.

Sec. 9. Tax Shall Be Lien--The tax imposed by this Act shall be a lien upon the property of any person subject to the provisions hereof, who shall sell out his business or stock of goods, or shall quit business, and such person shall be required to make out the return provided for under Section 6 within thirty days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a

receipt from the Commissioner showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided and the taxes shall be due and unpaid after the thirty-day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

Sec. 19. **Aggrieved Person May File Petition.**-- If any person having made the return and paid the tax as provided by this Act, feels aggrieved by the assessment made upon him for any year by the Commissioner, he may apply to the tax Commission by petition, in writing, within thirty days after the notice is mailed to him, for a hearing and a correction of the amount of the tax so assessed upon him by the Commissioner, in which petition he shall set forth the reasons why such hearings should be granted and the amount in which such tax should be reduced. The Tax Commission shall promptly consider such petition, and may grant such hearing or deny the same. If denied, the petitioner shall be forthwith notified thereof; if granted the Tax Commission shall notify the petitioner of the time and place fixed for such hearing. After such hearing, the Tax Commission may make such order to the matter as may appear to it just and lawful, and shall furnish a copy of such order to the petitioner. Any person improperly charged with any tax and required to pay the same, may recover the amount paid, together with interest, in any proper action or suit against the Commissioner, and the Circuit Court of the county in which the taxpayer resides or is located shall have original jurisdiction of any action to recover any tax improperly collected. It shall not be necessary for the taxpayer to protest against the payment of the tax or to make any demand to have the same refunded in order to maintain such suit. In any suit to recover taxes paid or to collect taxes the court shall adjudge costs to such extent and in such manner as may be deemed equitable.

Either party to such suit shall have the right to appeal to the Supreme Court of Mississippi as now provided by law. In the event a final judgment is rendered in favor of the taxpayer in a suit to recover illegal taxes, then it shall be the duty of the State Auditor, upon receipt of a certified copy of such final judgment, to issue a warrant directed to the State Treasurer in favor of such taxpayer to pay such judgment, interest and costs. It shall be the duty of the State Treasurer to honor such warrant and pay such judgment out of any funds in the State Treasury.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes imposed by this Act,

or to restrain the enforcement of this Act. The provisions of Section 420, Code of 1930, shall not apply to taxes imposed by this Act.

It shall be the duty of any attorney for the Commission or Commissioner and/or the Attorney General to represent the Commission, the Commissioner or any agent or employee, and/or the State of Mississippi in all legal matters relating to the enforcement, construction, application and administration of this Act, and in any litigation which may be instituted by the Commission or Commissioner and in which they or either of them may become involved, upon the order and under the direction of the Commissioners.

Sec. 11. Warrant For Collection of Tax-- Tax Shall Constitute Debt Due State.-- If any tax imposed or any portion of such tax be not paid within sixty days after the same becomes due, the Commissioner shall issue a warrant under official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person owing the same, found within his county, for the payment of the amount thereof, with damages, to the amount of 10% of the tax, in addition to the penalties imposed for failure to make or for making a fraudulent return and interest, and cost of executing the warrant, and to return such warrant to the Commissioner and pay to him the money collected by virtue thereof by a time to be therein specified, not more than sixty days from the date of the warrant. The sheriff shall within five days after the receipt of the warrant, file with the circuit clerk of his county a copy thereof, and thereupon the circuit clerk shall enter in the judgment roll, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns, the amount of the tax, or portion thereof and damages for which the warrant is issued; and the day when such copy is filed; and thereupon the amount of such warrants so docketed shall become a lien upon the title to and interest in real and personal property, including choses in action, except negotiable instruments not past due, of the person against whom it is issued in the same manner as a judgment duly enrolled in the office of such clerk. The sheriff thereupon shall levy upon any property of the taxpayer, including negotiable instruments, in all respects, with like effect, and in the manner prescribed by law in respect to executions issued against property upon judgments or attachment proceedings of a court of record and the remedies by garnishment shall apply and the officer shall be entitled to the same fees for his services in executing the warrant as now allowed by law for like services, to be collected in the same manner as now provided by law for like services.

A tax due and unpaid under this Act shall constitute a debt due the state and may be collected by action in debt upon action for judgment or other appropriate judicial proceedings, which remedy shall be in addition to all other existing remedies; and it shall constitute a lien upon all property of the taxpayer except negotiable instruments not past due and the same shall be collected together with an additional ten per cent of the amount of the tax and penalties imposed for failure to make or for making a fraudulent return, and the costs of collection, if paid within thirty days after the date it was due, and an additional two per cent of the amount of the tax for each succeeding thirty days elapsing before the tax shall have been paid; provided, however, that the additional two per cent penalty shall not be applied until a ten day notice of delinquency shall have been sent to the taxpayer.

Any person against whom a tax shall be assessed as herein provided shall be restrained and enjoined upon the order of the Chairman of the Commission, by proper proceedings instituted in the name of the State of Mississippi, by suitable action, brought by the Attorney General and/or any district attorney at the request of the Commissioner, and/or the attorney for the Commission or Commissioner, from engaging and/or continuing in a business for which a privilege tax is required by the provisions of this Act, until the taxes shall have been paid and until such person shall have complied with the provisions of this Act, and such attorneys shall prosecute violations of criminal provisions of this Act upon the request of the Commissioner.

Sec. 12. Annual Return--When To Be Made.-- The assessment of taxes herein made and the returns required therefor shall be for the year ending on the 31st day of December; provided, however, that if the taxpayer in transacting his business, keeps the books reflecting the same on a basis other than the calendar year, he may, with the assent of the Commissioner make his annual returns and pay taxes for the year covering his accounting period, as shown by the method of keeping the books of his business.

Sec. 13. Is Additional Tax.-- The tax imposed by this Act shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder, except as in this Act otherwise specifically provided. But no municipality or levee district shall be authorized to levy any tax by virtue of the provisions of this Act.

Remittances--How Made.-- All remittances of taxes imposed by this act shall be made to the Commissioner by bank draft, check, cashier's check, money order, or money,

who shall issue his receipts therefor to the taxpayers, when requested, and shall deposit all moneys received in some bank or banks in this State, qualified as a state depository; provided, no remittance other than cash shall be final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash to the Commissioner.

Sec. 13-a. On or before the fifth day of each month the total amount received from taxes levied under the provisions of this Act during the preceding month shall be paid by the Commissioner into the State Treasury as provided by law.

Sec. 13-b. At the end of each month the Auditor shall carefully check the books and records of the Commissioner and his accounts with the bank or banks, and shall verify the amounts paid or to be paid into the State Treasury. Any duty herein required of the Auditor may be performed by an inspector employed under the provisions of Section 3747 of the Mississippi Code of 1930.

Sec. 13-c. The Commissioner shall keep full and accurate records of all moneys received by him, and how disbursed; and shall preserve all returns filed with him under Sections 5 and 6 of this Act for a period of three years.

Sec. 14. Letters In Report Not to be Divulged.-- Unless in accordance with the judicial order or as herein provided, the members of the State Tax Commission, its agents, clerks or stenographers shall not divulge the gross income, gross proceeds of sales or the amount of tax paid by any person as shown by the reports filed under the provisions of Sections 5 and 6 of this Act, except to members and employees of the State Tax Commission, and the Income Tax Department thereof, for the purpose of checking, comparing and correcting returns, or to the Governor, or to the Attorney General, or any other legal representative of the State in any action in respect to the amount of tax due under the provisions of this Act.

Sec. 14-a. The Secretary of State shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this State or organized under the laws of another state and admitted to do business in this State until the receipt of a notice from the Commissioner to the effect that the tax levied under this Act against any such corporation has been paid, if any such corporation is a taxpayer under the law, or until he shall be notified by the Commissioner that the applicant

is not subject to pay a tax hereunder.

Sec. 15. Unlawful to Refuse to Make Returns-- Penalty.-- It shall be unlawful for any person to fail or refuse to make the return provided to be made in Sections 3 and 6 of this Act, or to make any false or fraudulent return, or false statement in any return, with intent to defraud the State or to evade the payment of the tax, or any part thereof, imposed by this Act; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this Act; or for the president, vice-president, secretary or treasurer of any company to ask, or permit to be made for any company or association any false return, or any false statement in any return required by this Act with the intent to evade the payment of any tax hereunder; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the Commissioner, or his duly appointed agent, as required by this Act; or to fail or refuse to permit the inspection or appraisal of any property by the Commissioner or his duly appointed agent, or to refuse to offer testimony or produce any record as required in this Act. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor and on conviction thereof shall be fined not more than Five Hundred Dollars (\$500.00), or imprisoned not exceeding six months in the county jail, or punished by both such fine and imprisonment, at the discretion of the court within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury and, on conviction thereof, shall be punished in the manner provided by law. Any company for which a false return, or a return containing a false statement as aforesaid shall be made, shall be guilty of a misdemeanor and may be punished by a fine of not more than Five Hundred Dollars (\$500.00).

Sec. 16. Administration of Act Vested In Chairman of the State Tax Commission.-- The administration of this Act is vested in and shall be exercised by the Chairman of the State Tax Commission, except as otherwise herein provided, and the enforcement of any of the provisions of this Act in any of the courts of the State shall be under the exclusive jurisdiction of the Chairman of the State Tax Commission who may require the assistance of and act through the prosecuting attorney of any county, or any district attorney, or any attorney for the Commission, and may with the assent of the Governor, employ special counsel in any county to aid the prosecuting attorney, the compensation of whom shall be fixed by and

paid only upon the approval of the Governor; but the district attorney, or prosecuting attorney of any county shall receive no fees or compensation for services rendered in enforcing this Act in addition to the salary paid to such officer. The Chairman of the State Tax Commission shall appoint, as needed, such agents, clerks and stenographers as authorized by law, who shall serve under him, shall perform such duties as may be required, not inconsistent with this Act, and are hereby authorized to act for the Commissioner as he may prescribe and as provided herein. Each such agent shall execute a bond in the sum of Five Thousand Dollars (\$5,000.00) for the faithful discharge of his duties. All of such agents, clerks and stenographers may be removed by the Chairman of the State Tax Commission for cause of which the Commissioner shall be final judge.

In case of violation of the provisions of this Act the Commissioner may decline to prosecute for the first offense, if in his judgment such violation is not wilful or flagrant.

Sec. 17. Commissioner To Make Regulations.-- The Commissioner shall from time to time promulgate such rules and regulations not inconsistent with this Act for making returns and for the ascertainment, assessment and collection of the tax imposed hereunder as he may deem necessary to enforce its provisions; and upon request shall furnish any taxpayer with a copy of such rules and regulations.

All forms, except the license to be issued under the provisions of Section 3 hereof, necessary and proper for the enforcement of this Act shall be prescribed, printed and furnished by the Commissioner; and the license prescribed by Section 3 hereof shall be furnished by the Auditor and accounted for as are Privilege Tax Licenses, issued under the provisions of the Privilege Tax Laws of this State.

Sec. 18. Commissioner Or Agent May Examine Books, Etc.-- The Commissioner or his authorized agents, may examine any books, papers, record, or other data bearing upon the correctness of any return, or for the purpose of making a return where none has been made, as required by Sections 5 and 6 of this Act, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such persons or person. If any person summoned as a witness shall fail to obey any summons to appear before the Commissioner or his authorized agent, or shall refuse to testify or answer any material question or to produce any book, record, paper or other data when required to do so,

such failure or refusal shall be reported to the Attorney General, the District Attorney or County Attorney, who shall thereupon institute proceedings in the Chancery Court of the County where such witness resides to compel obedience to any summons of the Commissioner, or his authorized agent, officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the justice of the peace courts; to be paid from the proper appropriation for the administration of this Act.

Sec. 19. Excess Payment--Refund.-- If upon examination of any monthly or quarterly return made under this Act, it appears that an amount of tax has been paid in excess of that properly due, then the amount in excess shall be credited against any tax or installment thereof then due from the taxpayer, under any other subsequent monthly or quarterly return, and any balance of such excess at the end of the year and upon the filing of its annual return, shall be immediately refunded to the taxpayer by certificate of overpayment issued by the Commissioner to the State Auditor which shall be investigated and approved by the Attorney General and the Auditor. shall issue his warrant on the Treasurer, which warrant shall be payable out of any funds appropriated for that purpose. Any taxes recovered by suit by any taxpayer shall be refunded in like manner, but shall be accompanied by a copy of the order or decree of the court issuing such order or decree.

Sec. 20. Prior Rights Or Actions Not Affected By This Act.--Nothing in this Act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due, under the Revenue Act of 1930, prior to the date on which this Act becomes effective, whether such assessments, appeal, suit, claim or action shall have been begun before the date on which this Act becomes effective, or shall thereafter be begun; and the sections of the Revenue Act of 1930 amended or repealed by this Act are expressly continued in full force, effect and operation for the purpose of the assessment and collection of any taxes due under any such laws prior to the date on which this Act becomes effective, and for the imposition of any penalties forfeitures or claims for a failure to comply therewith.

Sec. 21. Invalidity of Part of Act Not To Invalidate Entire Act.--If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder

of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 22. Conflicting Laws Repealed.--That Sections 1 to 20 of Article 1 of Chapter 90, Laws of Mississippi 1930, being an act imposing a privilege tax on Gross Income and Gross proceeds of sales, be and the same are hereby repealed.

Sec. 23. That this Act shall take effect and be in force from and after the 30th day of April, 1932, but being an emergency revenue measure shall expire and stand repealed on the 30th day of June, 1934.

Approved April, 23, 1932.

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